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# QUELQUES EXEMPLES DE QUESTIONS COURANTES DE DROIT INTERNATIONAL D'UNE IMPORTANCE PARTICULIÈRE POUR LE CANADA

# SOME EXAMPLES OF CURRENT ISSUES OF INTERNATIONAL LAW OF PARTICULAR IMPORTANCE TO CANADA

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## UN CONVENTION ON THE PROTECTION OF PERSONNEL

A draft Convention on the Protection of United Nations Personnel is being negotiated by an open-ended Working Group of the Sixth Committee of the United Nations General Assembly. The Working Group and an Ad Hoc Committee established intersessionally have met four times since last fall in an attempt to complete the negotiations. Negotiations were motivated by the dramatic increase in deliberate attacks on UN peacekeepers and associated civilian personnel in UN operations such as Somalia, the former Yugoslavia and, most recently, Rwanda.

Traditionally, UN peacekeepers monitored or supervised cease-fires, truces or armistice agreements where they were unlikely to encounter serious casualties or deliberate attacks. More recently, however, peacekeeping missions have become more complex and diverse. Their mandates now include supervision of the disarming and disbanding of armed factions; the establishment of protected areas for persons subjected to human rights abuses; the enforcement of sanctions; the monitoring of elections, borders, human rights and repatriation of refugees; and the protection and delivery of humanitarian supplies to civilian populations. As such, peacekeepers are operating amidst armed conflict, both of an international and non-international character.

The draft Convention includes provisions on the obligation of States to prosecute or extradite individuals suspected of committing serious crimes against UN personnel. Among the issues to be decided during the negotiations are the scope of application of the Convention, including which personnel, which UN operations and which offences will be covered.

Canada will actively participate in the negotiations this fall (the Legal Adviser of the Department of Foreign Affairs and International Trade chairs the Working Group) and supports the early adoption of the Convention.

## CONVENTION DES NATIONS UNIES SUR LE DROIT DE LA MER

Le Canada a été l'un des participants les plus actifs lors des négociations ayant entouré la rédaction de la Convention sur le droit de la mer, qui établit un régime intégral de réglementation des mers et océans du globe. De 1982, année de son adoption, au 9 décembre 1984, terme de la période de signature, 159 États (dont le Canada) l'avaient signée, ce qui représente une adhésion sans précédent à un accord international.

Notre intérêt à l'égard de la Convention se justifie par trois principaux éléments:

- la géographie du Canada, État côtier bordé par trois océans et doté d'un vaste plateau continental;

- l'importance que le Canada attache aux processus multilatéraux et à la règle de droit, particulièrement au sein des Nations Unies;

- l'objet même de la Convention, qui répond à de nombreuses attentes canadiennes: établir un cadre juridique stable en matière océanique de même que des droits substantiels pour les États côtiers en matière de pêche, de navigation, de prévention de la pollution (dans la zone économique exclusive et dans les zones recouvertes de glace) et de ressources minérales du plateau continental.

L'entrée en vigueur de la Convention, qui interviendra le 16 novembre 1994, a été longtemps retardée par les réticences qu'inspiraient à la plupart des pays industrialisés les dispositions sur l'exploitation des ressources minérales des grands fonds marins contenues dans sa Partie XI. Des consultations menées par le Secrétaire général des Nations Unies à ce sujet ont finalement eu raison de ces réticences et ont abouti au texte d'un accord modifiant ladite Partie XI, adopté par l'Assemblée générale des Nations Unies le 28 juillet 1994.

Cet accord modifie les dispositions de la Convention de façon à les rendre conformes aux intérêts économiques des États industrialisés. Il tient compte des impératifs du marché et surtout du fait que les opérations minières

sous-marines ne pourront être économiquement viables avant de nombreuses années. Par ailleurs, l'accord insiste sur la protection de l'environnement et réitère que les grands fonds marins font partie du patrimoine commun de l'humanité.

Notre signature de l'accord modifiant la Partie XI, dès le 29 juillet 1994 à New York, a confirmé l'intérêt du Canada pour la Convention sur le droit de la mer. La ratification de cette dernière, que le Canada compte effectuer dans un avenir rapproché, emportera ratification de l'accord.

## LA SURPÊCHE EN HAUTE MER

L'industrie de la pêche du poisson de fond sur la côte est du Canada connaît depuis plusieurs années une des plus graves crises de son histoire. Parmi les multiples causes de cette crise figure la surpêche de stocks chevauchants au-delà de la limite canadienne des 200 milles. Cette situation illustre les lacunes que comporte la Convention des Nations Unies sur le droit de la mer en ce qui concerne la pêche en haute mer.

Afin de remédier à cette situation le gouvernement du Canada a déployé ses efforts dans de nombreuses enceintes internationales, dont la Conférence des Nations Unies sur les stocks de poissons chevauchants et les stocks de poissons grands migrateurs. La convocation de cette conférence résulte d'une initiative canadienne à la Conférence des Nations Unies sur l'environnement et le développement en 1992 et le Canada y joue un rôle de premier plan depuis le début de ses travaux en 1993.

Le Canada a également été sur les premiers rangs dans l'élaboration de l'Accord visant à favoriser le respect par les navires de pêche en haute mer des mesures internationales de conservation et de gestion, adopté par la Conférence de l'Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO) le 24 novembre 1993. Cet Accord prévoit notamment que

> Chaque Partie prend les mesures qui peuvent être nécessaires pour s'assurer que les navires autorisés à battre son pavillon n'exercent aucune activité susceptible de compromettre l'efficacité de mesures internationales de conservation et de gestion.

Du point de vue du Canada, le principal intérêt de l'Accord de la FAO est donc le fait qu'en y adhérant les États non-membres de l'Organisation des Pêches de l'Atlantique nord-ouest (OPANO) deviendront liés par les mesures de conservation et de gestion adoptées par cette Organisation. Cet Accord, qui constitue un événement marquant dans la gestion internationale des pêches en haute mer, entrera en vigueur à la date de réception par le Directeur général de la FAO du vingt-cinquième instrument d'adhésion. Le Canada a été le premier État à déposer un tel instrument le 20 mai 1994.

Malgré les efforts internationaux du Canada et le succès relatif qu'ils ont remporté, la crise de la pêche sur la côte est n'a pas cessé de s'aggraver. Donnant suite à un de ses engagements électoraux, en mai dernier le nouveau gouvernement fédéral a donc fait adopter des amendements à la Loi sur la protection des pêcheries côtières qui lui accordent d'importants pouvoirs pour fixer et faire respecter les règles de conservation au-delà de la limite des 200 milles dans l'Atlantique nord-ouest, y compris celui d'arrêter les navires de pêche battant le pavillon de certains pays étrangers sans le consentement de ces derniers. Au même moment il modifiait l'acceptation par le Canada de la juridiction obligatoire de la Cour internationale de Justice afin d'en exclure tout différend relatif à cette nouvelle législation.

Ce faisant le Canada a insisté sur le fait qu'il s'était vu contraint d'adopter des mesures temporaires en raison d'une situation d'urgence et que ces mesures ne diminuaient en rien sa détermination à continuer de travailler à l'élaboration d'une solution multilatérale aux problèmes que pose la surpêche en haute mer. De fait la délégation canadienne a participé tout aussi activement que par le passé à la plus récente session de la Conférence des Nations Unies sur les stocks de poissons chevauchants et les stocks de poissons grands migrateurs, qui s'est tenue à New York du 15 au 26 août derniers.

À l'issue de cette session le Président de la Conférence a déposé un "Projet d'accord aux fins de l'application des dispositions de la Convention des Nations Unies sur le droit de la mer du 10 décembre 1982 relatives à la conservation et à la gestion des stocks de poissons dont les déplacements s'effectuent tant à l'intérieur qu'au-delà des zones économiques exclusives (stocks chevauchants) et des stocks de poissons grands migrateurs". La forme de ce document, qui n'a pas encore fait l'objet d'un consensus, reflète le sentiment du Canada et de la majorité des autres États participants à l'effet que le résultat des travaux de la Conférence doit être juridiquement contraignant. Son contenu reflète également dans une large mesure les positions défendues par le Canada, même si un certain nombre de ses dispositions devront faire l'objet de plus amples négociations. Sous réserve de l'approbation de l'Assemblée générale, la Conférence tiendra deux sessions additionnelles en 1994 (27 mars-12 avril et 24 juillet-4 août), suite auxquelles un projet d'Accord doit être soumis pour adoption par l'Assemblée générale à sa cinquantième session.

## THE INTERNATIONAL CRIMINAL COURT

Canada played a leading role at the Forty-Seventh Session of the United Nations General Assembly in obtaining consensus on a resolution calling on the International Law Commission (ILC) to give priority to establishing an International Criminal Court. The issue was raised by the Honourable Barbara McDougall, then Secretary of State for External Affairs, in her address to the General Assembly on September 24, 1992.

By General Assembly Resolution 47/33 of November 15, 1992, the ILC was mandated to prepare a draft statute for an International Criminal Court. An international meeting of experts on this subject took place in Vancouver on March 22-27, 1993.

In July 1993, the ILC submitted to the General Assembly the Revised Report of its Working Group on the subject, containing a Draft Statute for an International Criminal Court. Following comments received from States and further Working Group discussions, the ILC adopted an amended version of the Draft Statute during its 46th session in July 1994 and forwarded it to the General Assembly for consideration.

The Department of Foreign Affairs and International Trade and the Department of Justice have reviewed the provisions of the Draft Statute in preparation of further discussion at the UN Sixth (Legal) Committee. Among the issues that concern Canada are the power of an international court to issue orders binding on a Member State, provisions providing for the extension of prosecute or extradite obligations to multilateral treaties, and the opportunity for dissenting judgments to be published.

Canada intends to speak to the issue of the Draft Statute during the debate on the ILC Report at the Sixth Committee at the end of October 1994. In addition to expressing its support for the work done by the ILC, Canada will request that continued priority be given to the establishment of the Court.

## WAR CRIMES IN THE FORMER YUGOSLAVIA

At the London Conference in August 1992, Canada was one of the first countries to call for an International Tribunal to try charges of war crimes committed in the former Yugoslavia.

United Nations Security Council (UNSC) Resolution 780 requested states to collate information in their possession relating to violations of humanitarian law, to make such information available to the UN Commission of Experts (UNCOE) which had been established and "to provide other appropriate assistance". In accordance with this resolution, Canada submitted several reports to the Secretary General. Canada was the first country to make a substantial financial contribution to the voluntary fund for UNCOE.

UNCOE's mandate was to investigate grave breaches of the Geneva Conventions and other violations of international humanitarian law. Canadian defence personnel were involved in on-site investigations in the former Yugoslavia. A Canadian was one of the 5 members of UNCOE.

UNCOE completed its investigations in April 1994. Its final report was submitted by the UN Secretary General to the President of the UNSC on 27 May 1994. The report concluded that grave breaches of the Geneva Conventions and other violations of international humanitarian law had been committed in the territory of the former Yugoslavia.

On February 22, 1993, the UNSC adopted Resolution 808 which established the International Tribunal to prosecute those responsible for serious violations of international humanitarian law in the former Yugoslavia. On May 25, 1993, the UNSC adopted Resolution 827 approving the Secretary-General's report and adopting the Statute of the International Tribunal annexed to the report.

The Tribunal, as set out in the Statute, consists of 11 judges elected for a four year term. Judge Jules Deschênes, a Canadian, was elected to the Tribunal in September 1993. The Tribunal judges have organized themselves into an appellate chamber of 5 members and two trial chambers of 3 members

each. The seat of the Tribunal is The Hague, Netherlands, although the Tribunal is competent to hear cases in other locations. The funding of the Tribunal is secured through the UN and the contributions by individual countries to a Voluntary Fund.

In March 1994, the Tribunal adopted a set of Rules of Procedure and Evidence after having received comments from states, including Canada. The Tribunal has also published Rules governing the detention of persons awaiting trial or appeal before the tribunal or otherwise detained on the authority of the Tribunal.

Mr. Justice Richard Goldstone of South Africa was appointed the Prosecutor of the Tribunal by the UNSC in July 1994. The final report of UNCOE and the supporting material were submitted to the International Tribunal for use in future prosecutions. The Prosecutor's Office is reviewing the evidence before it and expects to lay its first indictments in November 1994 (with trials to start in early 1995).

The Department of Justice is currently studying measures necessary under Canadian law to implement the provisions of Article 4 of Resolution 827, particularly those concerning extradition, transfer or surrender of persons to the tribunal and future "requests for assistance or orders issued by a trial chamber".

Canada supports the proposals before the UNSC to expand the mandate of the Tribunal to cover the atrocities committed in Rwanda or to set up an associated tribunal which would share administrative resources and an appeal chamber with the Yugoslav Tribunal.

## ENVIRONMENTAL LAW

On September 14, 1993, Canada, the United States of America and Mexico signed the North American Agreement on Environmental Cooperation. It creates an operating framework for cooperation on environmental issues and a means to ensure that each of three countries respects and enforces its environmental law. The Agreement expands on commitments to environmental sustainable growth made by the three countries in the North American Free Trade Agreement (NAFTA).

Canada ratified both the Convention on Climate Change and the Convention on Biological Diversity on December 4, 1992. International meetings have been held in preparation for their entry into force. As of September 22, 1994, 92 States had ratified the Convention on Climate Change which entered into force in March 1994. The Convention on Biological Diversity entered into force on December 29, 1993 and preparations are underway for the first meeting of the Conference of the Parties in November 1994.

Canada also acceded on March 8, 1994 to the International Convention on Oil Pollution, Preparedness, Response and Co-operation.

Canada ratified the Copenhagen Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer on March 16, 1994.

Canada will sign in Paris, in October 1994, the International Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

Within the context of the United Nations Economic Commission for Europe and after several thorough negotiating sessions, work was completed on the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Further Reduction of Sulphur Emissions, which Canada signed in Oslo on June 13, 1993.

In June of 1993, the OECD Council at Ministerial Level endorsed the report of the OECD Joint Session of Trade and Environment Experts. This report concerning trade and the environment was developed after intensive

negotiations. The Joint Session concentrated on the identification, description, analysis and understanding of various factors which stand at the interface between trade and environmental policies. The procedural guidelines outlined in the second part of the report are intended "to help governments improve the mutual compatibility of trade and environmental policies and policy making". They address the following issues: transparency and consultation; trade and environmental examinations; reviews and follow-up; international environmental cooperation; and dispute settlement.

Following the first meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the first meeting of the Ad-Hoc Working Group of Legal and Technical Experts was convened, in September 1993, to consider and develop a Draft Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal. Discussions on the draft Protocol are continuing in Geneva in October 1994.

On the bilateral side, Canada signed the Canada-USA Joint Inland Pollution Contingency Plan on July 25, 1994. This Plan provides for a cooperative mechanism for preparedness for and response to accidental and unauthorized spills and releases of pollutants that affect or are likely to affect both countries.

Work proceeded with the United States on updating the North American Waterfowl Management Plan which includes Mexico as a full partner in the plan to allow a continental North American approach to waterfowl conservation. A Memorandum of Understanding on Multipurpose Wet Cleaning Demonstration Projects was signed with the United States last winter. In addition, a Program for Cooperation on Forestry was signed with the Ministry of Agriculture of Mexico on September 14, 1994.

## TREATIES ON MATTERS INVOLVING CRIMINAL LAW

### MUTUAL LEGAL ASSISTANCE TREATIES (MLATS)

During the past year, Canada has continued to negotiate and sign Treaties on Mutual Legal Assistance in Criminal Matters. The network of MLATS ensures that an effective mechanism of international legal assistance exists for use by Canadian law enforcement authorities. MLATS may be used to obtain evidence, exchange information on the proceeds of crime and assist, to the extent permitted by respective laws, in forfeiture. An MLAT may also be used to examine objects, exchange information, locate and identify persons, transfer persons in custody, and facilitate requests for search and seizure.

Canada has entered into treaties with Australia, the Bahamas, France, Hong Kong, the Netherlands, Mexico, the United Kingdom and the United States. On October 3, 1994, an MLAT with Thailand was signed by the Minister of Foreign Affairs and came into force on signature.

In the past year Canada has signed MLATs with China, India, Korea, Poland, Spain, and Switzerland. Negotiations have been held with Austria, Denmark, Germany, Hungary, Panama Portugal, Sweden, Switzerland, Uruguay, Venezuela and Vietnam.

### TRANSFER OF OFFENDERS

Canada has transfer of offenders arrangements with about 38 countries through bilateral treaties, the Strasbourg Convention on the Transfer of Sentenced Persons and the Scheme for the Transfer of Convicted Offenders within the Commonwealth. These arrangements permit individuals in prison abroad to be returned to Canada to serve their sentence in their own culture and language close to friends and relatives. Rehabilitation is one of the principle objectives of these arrangements

On July 27, 1993, Canada accepted the Scheme for the Transfer of Convicted Offenders within the Commonwealth. This permits offenders from Commonwealth countries which accept this Scheme to serve their sentences in their home countries. Under the Scheme a Canadian prisoner in a

Commonwealth country can apply to the government of that country for a transfer to Canada. The prisoner would have to have at least six months of the sentence left to serve and have completed all appeals. If both governments approved the transfer, the prisoner would be brought back to Canada to serve the sentence in a Canadian correctional institution. The sentence of the foreign court would be treated as a sentence of a Canadian court. The appropriate parole board would decide on parole on the basis of Canadian law.

As well on July 7, 1994, Canada signed the Inter-American Convention on Serving Criminal Sentences Abroad which was adopted in July 1993 by the General Assembly of the Organization of American States. This Convention provides for transfer of offenders between states members of the OAS which ratify the Convention.

## IRAQ CLAIMS: NEW DEVELOPMENTS

Following the Gulf War, the United Nations Security Council established the United Nations Compensation Commission (UNCC) to evaluate losses arising from Iraq's invasion and occupation of Kuwait. A subsidiary organ of the Security Council, the UNCC was intended to give effect to Security Council Resolution 687's affirmation that Iraq was "liable under international law for any direct loss, [or] damage,...to foreign Governments, nationals and corporations" resulting from Iraq's actions.

The Governing Council, the principal policy-making body of the UNCC, has laid out in some 19 decisions, the legal framework for the resolution of claims; the Secretariat receives and organizes the claims and three Panels of Commissioners review claims and provide their recommendations to the Governing Council for final decision.

The first set of recommendations by the Panel of Commissioners of the UNCC was approved by the UNCC Governing Council at its June session. These recommendations were for the payment of fixed amounts on Category "B" claims (serious personal injury or death). Although amounts are not substantial, they provide for early relief to claimants.

The Panel addressed two main issues: the attribution of losses and damages to Iraq and jurisdiction. As this is the first report of any of the Panels of Commissioners, it will undoubtedly serve as the foundation for future recommendations by other Panels of Commissioners (Categories A - F).

The Panel recommended that in principle, the injury or death should have occurred between the date of the Iraqi invasion and the date the United Nations Security Council resolution noted the suspension of combat operations, namely, August 2, 1990, to March 2, 1991. With the exception of mine explosions, the occurrence of a serious personal injury or death outside the time frame imposed a general burden on the claimant to link the incident to the invasion.

One of the major issues faced by the Panel was determining what

constitutes a family for purposes of compensation. Governing Council Decision 1, paragraph 13 stated that "no more than $10,000 will be paid for death with respect to any one family". The Panel concluded that the family unit is composed of the "deceased (whose death is to be compensated), his or her parents, all of his or her children, and his or her spouse". Generally, the Panel found it was not possible to consider different units inside the family for the purpose of the application of the $10,000 ceiling, except when a man had more than one wife. With respect to other legally cognizable family relationships (i.e. adopted children, wards etc.), the Panel applied to each claimant his or her own national law in interpreting these terms. The Panel held that the age or marital status of the family member was not relevant for purposes of compensation.

Governing Council Decision 3 defined "serious personal injury" as dismemberment, permanent or temporary significant disfigurement, etc. and excluded matters not requiring a course of medical treatment. It also included physical or mental injury arising from sexual assault, torture, aggravated physical assault, hostage taking or lengthy hiding. The Panel found that, miscarriages, abortions or stillbirths were, for purposes of compensation, serious personal injuries suffered by women.

As the first attribution question, the Panel decided all vehicle accidents involving an Iraqi military vehicle were a consequence of the invasion. An accident occurring in the first day or days immediately following the invasion were found to be related to "breakdown of civil order". As well, "as a general rule", the Panel determined that the further the place of the accident from the claimant's point of departure from Iraq or Kuwait, the less likely the link with Iraq's invasion.

On the question of the lack of medical care, the Panel found that a serious personal injury or death as a consequence of the lack of equipment, medicine or medical care "regarded as indispensable under usual circumstances" was determined to be directly related to the invasion and occupation of Kuwait. Included, for example, were a number of diabetic persons who were deprived of necessary drugs or treatments and developed other serious illnesses, and, in some cases, died.

The Panel also allowed compensation where there was a link between the physical condition that caused the death or serious personal injury

and the invasion. e.g. a fatal heart attack caused by stress of seeing a family member arrested. Similarly, injuries suffered in refugee camps were considered compensable.

Governing Council Decision 10 provided that claims on Form B were compensable with only "simple documentation". Recognizing the difficulty claimants faced in obtaining documentation, the UNCC established minimal requirements, generally requesting a) evidence of the date and fact of the injury or death, and b) proof of causation linking injury to the Iraqi invasion, and, for death claims, proof of the family relationship. Non-contemporaneous medical documentation was accepted. The Panel specifically did not require medical evidence for torture and rape victims, accepting that the claimants may not for personal or cultural reasons attend physicians.

The Government of Canada has submitted some 1300 individual and corporate claims for losses of approximately 137 million (U.S.) dollars. The majority of these claims are in Categories "A" (departure) and "C" (losses under $100,000). Recommendations by the Panels of Commissioners dealing with these claims are expected by late fall, 1994. A claim for government losses of nearly 56 million dollars was also submitted to the UNCC.

## ECONOMIC SANCTIONS

The imposition of economic sanctions against foreign states continues to be an extremely active area of international law. The annex below lists the United Nations Security Council resolutions adopted under Chapter VII of the UN Charter and Organization of American States resolutions imposing trade, commercial and financial sanctions that have been given effect pursuant to the United Nations Act or the Special Economic Measures Act.

The economic sanctions against Haiti which are listed below were lifted as a result of United Nations Security Council Resolution 944 of September 29, 1994. Canada lifted the sanctions through Orders in Council P.C. 1994-1700 and P.C.1994-1701 dated October 17, 1994.

## CANADIAN REGULATIONS IMPLEMENTING ECONOMIC SANCTIONS

### ANGOLA

| Resolution | Regulation |
|---|---|
| United Nations Security Council Resolution 864 of September 15, 1993 | United Nations Angola Regulations SOR/94-44 of January 13, 1994 |

### IRAQ

| Resolution | Regulation |
|---|---|
| United Nations Security Council Resolution 661 of August 6, 1990 | United Nations Iraq Regulations SOR/90-531 of August 7, 1990 |

| | |
|---|---|
| | United Nations Iraq Regulations, amendment SOR/91-185 of March 6, 1991 |
| United Nations Security Council Resolution 670 of September 25, 1990 | United Nations Iraq Regulations, amendment SOR/190-694 of October 1, 1990 |
| United Nations Security Council Resolutions 661 (August 6, 1990), 670 (September 25, 1990) and 687 (April 3, 1991) | United Nations Iraq Regulations, amendments SOR/93-343 of June 16, 1990 |

## FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

| Resolution | Regulation |
|---|---|
| United Nations Security Council Resolution 757 of May 30,1992 | United Nations Federal Republic of Yugoslavia (Serbia and Montenegro) Regulations SOR/92-342 of June 2, 1992 |
| United Nations Security Council Resolution 820 of April 17, 1993 | United Nations Federal Republic of Yugoslavia (Serbia and Montenegro) Regulations, amendment SOR/93-211 of April 26, 1993 |

## LIBYA

| Resolution | Regulation |
| --- | --- |
| United Nations Security Council Resolution 748 of March 31, 1992 | United Nations Libya Regulations SOR/92-222 of April 15, 1992 |
| United Nations Security Council Resolution 883 of November 11, 1993 | United Nations Libya Regulations, amendment SOR/93-521 of November 30, 1993 |

## RWANDA

| Resolution | Regulation |
| --- | --- |
| United Nations Security Council Resolution 918 of May 17, 1994 | United Nations Rwanda Regulations SOR/94-582 of August 30, 1994 |

## HAITI

| Resolution | Regulation |
|---|---|
| Organization of American States (OAS) Resolution 2/91 of October 8, 1991 | Special Economic Measures (Haiti) Permit Authorization Order SOR/92-369 of June 5, 1992 |
| | Special Economic Measures (Haiti) Regulations SOR/92-368 of June 5, 1992 |
| OAS Resolutions 1/91 of October 3,1991 and 3/92 of May 17, 1992 | Special Economic Measures (Haiti) Ships Regulations SOR/92-422 of July 7, 1992 |
| | Special Economic Measures (Haiti) Permit Authorization Order (Ships) SOR/92-423 of July 7, 1992 |
| United Nations Security Council Resolution 861 of August 27, 1993 | Special Economic Measures (Haiti) Regulations, revocation SOR/93-452 of Sept. 7, 1993 |
| | Special Economic Measures (Haiti) Ships Regulations, revocation SOR/93-453 of Sept. 7, 1993 |
| | Special Economic Measures (Haiti) Permit Authorization Order, revocation SOR/93-454 of Sept. 7, 1993 |

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|---|---|
| | Special Economic Measures (Haiti) Permit Authorization Order (Ships), revocation SOR/93-454 of Sept. 7 1993 |
| United Nations Security Council Resolution 873 of October 13, 1993 and OAS Resolution 610 of October 18, 1993 | Special Economic Measures (Haiti) Regulations, 1993 SOR/93-499 of October 22, 1993 |
| | Special Economic Measures (Haiti) Permit Authorization Order SOR/93-500 of October 22, 1993 |
| United Nations Security Council Resolution 917 of May 6, 1994) | Special Economic Measures (Haiti) Regulations, 1993, amendment SOR/94-358 of May 20, 1994 |
| OAS Resolution 6/94 of June 7, 1994 | Special Economic Measures (Haiti) Regulations, 1993, amendment SOR/94-467 of June 23 ,1994 |
| OAS Resolution 6/94 of June 7, 1994 | Special Economic Measures (Haiti) Regulations, 1993 amendment SOR/94-564 of August 17, 1994 |

## NPT 1995 EXTENSION CONFERENCE

Since its entry into force on March 5, 1970, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) has constituted the cornerstone of the world's non-proliferation system. It provides a political and legal barrier to the legitimization of additional nuclear weapons, the legal foundation for the commerce in nuclear equipment, material and technology as well as the basic commitments to be verified by the International Atomic Energy Agency (IAEA) Safeguards System. More than 150 States have ratified the NPT since its signature in 1968.

Every five years since 1970, the Parties to the NPT have held a Review Conference in order to review the operation of the NPT with a view to assuring that the purposes of the NPT are being realized.

The year 1995 will not only mark the 25th anniversary of the NPT but also a critical step in its evolution. Article X (2) of the Treaty requires that a conference be held in 1995 at which a majority of the parties to the NPT are to decide on any extension of the Treaty. Article X (2) provides for only three possible extension options:

1) The NPT could be extended indefinitely.

2) The NPT could be extended for an additional fixed period.

3) The NPT could be extended for additional fixed periods.

Canada strongly supports the indefinite extension of the NPT in unamended form as the other options do not unambiguously conserve the NPT and the benefits it supplies. The Canadian position has been expressed and reiterated on many occasions, more recently during André Ouellet's address to the 49th United Nations General Assembly in New York on September 29, 1994. Canada believes that the 1995 NPT Review Conference should focus exclusively on the extension of the NPT and progress on this issue should not be linked to reform of the substantive provisions of the Treaty.

Before the 1995 NPT Extension Conference, which will be held in New York in April 1995, four Preparatory Committees (PrepComs) will take place in order to prepare and review the appropriate documents as well as deal with procedural matters. The first three PrepComs were held respectively in New York in May 1993, in New York in January 1994 and in Geneva in September 1994. The fourth PrepCom will take place in New York in January 1995.

The 1995 NPT Extension Conference will remain a priority for Canada in the upcoming months. Its indefinite extension and universal adherence are essential to global security.

## ENERGY CHARTER TREATY

Formal negotiations concluded in September 1994 on the text for an Energy Charter Treaty (ECT) which has as its goal the establishment of the structural framework required to implement the principles enunciated in the European Energy Charter. The Charter, adopted at the Hague in December 1991 by representatives of Eastern and Western Europe, the Russian Federation and other members of the Former Soviet Union, the United States, Canada, Japan and Australia, resolved to promote a new model for energy co-operation in the long term in Europe and globally within the framework of a market economy, mutual assistance and the principle of non-discrimination.

The ECT is intended to catalyze economic growth by means of measures to liberalize investment and trade in energy products. The focus of this liberalization is on the promotion of East-West industrial cooperation, based on the provision of legal safeguards in the areas of investment, transit and trade. In respect of investment, the ECT contains provisions regarding the treatment of investment in the energy sector at the post-establishment phase. The Treaty also contemplates the commencement of a second stage of negotiations regarding the application of non-discriminatory principles to the pre-establishment phase of investment activity. These negotiations could commence as early as January 1995.

At present, it is contemplated that the ECT will be adopted by the European Energy Conference at Lisbon in December 1994.


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## FOREIGN INVESTMENT PROTECTION AGREEMENTS

The Canadian government initiated a foreign investment protection agreement (FIPA) program in 1989 in order to protect Canadian investment in developing countries and emerging economies. This program was implemented in response to consultations with Canadian business and reflected the need for an instrument to protect direct investment in regions not yet covered by international agreements on investment issues (such as the OECD Investment Codes). This program is consistent with similar programs initiated by other G-7 countries.

In 1994, Canada sought and received Cabinet approval to a new model agreement to be used as a basis for Canada's negotiations in the area of investment protection. The evolution both of Canada's own situation (the conclusion of the NAFTA which contains substantial provisions on investment) and the international context (the completion of the Uruguay Round of Multilateral Trade Negotiations) led to a re-examination of Canada's 1989 model.

The new model retains the fundamental elements found in Canada's earlier agreements, including fair treatment in accordance with international law, MFN treatment for investors, state-to-state and investor-to-state dispute settlement, transfer of funds in freely convertible currency and the concept of prompt, adequate and effective compensation for expropriation. In addition, the new model introduces, inter alia, obligations based upon the national treatment principle, "standstill" provisions, stronger investor-to-state dispute settlement, and provisions regarding entry of personnel.

Canada is currently involved in the negotiation of Foreign Investment Protection Agreements with a number of its trading partners in Asia, Eastern Europe, Africa and South America.

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