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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DROIT DE LA MER

La communauté internationale s'est réunie à Genève, du 17 mars au 9 mai 1975, pour y tenir la troisième session de la Troisième Conférence des Nations Unies sur le droit de la mer. Sa tâche était de codifier, dans une série d'articles, les grandes lignes du futur traité sur le droit de la mer, tracées lors de la réunion précédente tenue à Caracas de juin à août 1974. Les discussions de la deuxième session avaient clairement laissé entendre que la Conférence ne parviendrait à conclure un traité valable que si les solutions proposées étaient équitables et fondées sur de bons principes de gestion. Pour réussir à concilier les nombreux intérêts, souvent contradictoires, en jeu à la Conférence, on a élaboré deux concepts nouveaux qui s'écartent considérablement du droit international traditionnel: celui de la "zone économique exclusive", qui s'applique au secteur de juridiction maritime nationale, et celui du "patrimoine commun de l'humanité", qui englobe la zone internationale des fonds marins et ses ressources.

La zone économique exclusive

La zone économique exclusive s'étendrait au-delà de la mer territoriale jusqu'à une distance maximale de 200 milles des côtes; l'Etat côtier serait habilité à y exercer des droits considérables sur les ressources renouvelables et non renouvelables, tant pour la protection du milieu marin que pour le contrôle des activités de recherche. A Caracas, deux conceptions tout à fait opposées de la zone économique se sont fait concurrence. Un grand nombre d'Etats côtiers en voie de développement la voyaient comme une zone de souveraineté ouverte, au-delà de la mer territoriale, au libre passage des navires étrangers. Les Etats qui accordent la priorité à leur navigation et à leurs intérêts dans la pêche hauturière l'envisageaient par contre comme un secteur particulier de la haute mer où l'Etat côtier exercerait certains droits préférentiels au seul chapitre des ressources. A Genève, des concessions mutuelles ont permis de rapprocher ces deux positions jusque-là

incompatibles: on considère maintenant la zone économique comme exclusive à l'Etat côtier, lequel ne peut toutefois y exercer ses droits et sa juridiction que dans la mesure où il lui faut protéger et sauvegarder ses intérêts légitimes. Cette nouvelle formule est conforme à l'optique fonctionnelle préconisée par le Canada au cours des années.

Le patrimoine commun

Le "patrimoine commun de l'humanité" a lui aussi suscité de vives controverses, opposant cette fois les nations industrialisées aux nations en voie de développement. Dans leur recherche d'un nouvel ordre économique plus équitable, les Etats du Tiers-Monde désirent que la zone internationale des fonds marins (appelée ci-après la Zone), dont les ressources sont principalement constituées de nodules polymétalliques riches en cuivre, en nickel, en cobalt et en manganèse, soit explorée et exploitée d'abord au profit des nations pauvres. Tout en étant disposées à partager avec la communauté internationale les revenus provenant de l'exploitation des ressources de la Zone, les nations riches sont, quant à elles, surtout soucieuses de s'assurer un accès aux minéraux des fonds marins. Si les huit semaines passées à Genève n'ont pas suffi à faire tomber les obstacles idéologiques, un compromis demeure néanmoins possible puisqu'il a été question d'entreprises conjointes qui concrétiseraient les modalités contractuelles entre les exploitants de la Zone et la future Autorité internationale des fonds marins.

Méthode de travail de la conférence

C'est surtout grâce à la méthode de travail des délégués que de véritables progrès ont pu être réalisés à Genève. Jamais, dans une conférence internationale, n'avait-on vu pareille prolifération de groupes et de sous-groupes de travail. Le caractère non officiel des discussions au sein de ces petites équipes a permis aux divers

représentants de se détacher des strictes positions nationales et d'échanger leurs vues de façon franche et directe. C'est sans doute ce qui explique la rareté des documents officiels émanant de la session, qui ne recouvrent en fin de compte qu'une infime partie du problème. Un groupe s'est révélé particulièrement efficace, celui formé à la diligence du ministre norvégien M. Jens Evensen: composé d'une quarantaine d'éminents juristes, dont l'ambassadeur du Canada M. J. A. Beesley, et représentant les cinq continents et les intérêts les plus divers, le Groupe Evensen était chargé de rédiger des textes acceptables sur les principales questions intéressant le droit de la mer. Après avoir délibéré de façon soutenue lors de deux réunions intersessionnelles d'une durée de deux semaines à New York, et chaque jour par la suite à Genève, le Groupe a présenté, sur les questions de la zone économique, des pêcheries et du plateau continental, des textes auxquels a souscrit la grande majorité.

Dans le but de sortir de l'impasse, la deuxième Commission, où les travaux trébuchaient sur les aspects traditionnels du droit de la mer, et de sauvegarder les résultats positifs obtenus de façon officieuse par le Groupe Evensen, la Conférence confia, le 18 avril, aux présidents des trois principales commissions le mandat de préparer, dans le cadre de consultations et de discussions officielles, une série d'articles de traité qui permettraient aux commissions d'activer leurs travaux futurs. Le président de la Conférence, l'Ambassadeur de Sri Lanka, M. S. H. Amerasinghe prit la sage décision de présenter à la toute fin de la session les trois séries d'articles formant un "texte unique de négociation", sans laisser aux délégués la chance de donner libre cours à leurs commentaires et à leurs réactions. Lorsque toutes les parties prirent finalement connaissance du texte unique, à l'occasion de la séance plénière du 9 mai, le président leur précisa qu'il ne s'agissait pas d'un document adopté ou négocié, mais plutôt d'un instrument qui servirait de base aux négociations de la prochaine session. Les principaux points du texte unique seront étudiés ci-dessous à la lumière des discussions qui ont pris place tant au sein des réunions officielles de la Conférence qu'à l'extérieur.

La zone internationale des fonds marins

A Caracas, désireuse de régler d'abord les questions les plus épineuses afin de faciliter l'étude des autres problèmes dont elle était saisie, la première Commission examina à fond un article clef du régime juridique de la zone internationale des fonds marins: qui peut exploiter la Zone? Des différences de point de vue ont tôt fait d'apparaître. Le Groupe des 77 (constitué, en fait, d'un bloc plus ou moins homogène de quelque 105 Etats) proposa sa propre interprétation de l'article: l'Autorité internationale des fonds marins aurait le droit exclusif d'effecteur tous travaux d'exploitation dans la Zone, étant entendu qu'elle pourrait toutefois confier, par contrat de services, certaines tâches à des tierces parties, sans pour autant cesser d'y exercer les pleins pouvoirs. Du point de vue des nations industrialisées, c'est-à-dire des Etats-Unis, de l'URSS et des pays de la CEE (moins l'Irlande), l'Autorité ne jouerait par contre aucun rôle dans l'exploitation proprement dite de la Zone; ses pouvoirs seraient limités à l'émission de permis d'exploitation aux entreprises privées intéressées, toutes les autres activités n'étant assujetties à aucune réglementation. Les négociations aboutirent à l'impasse.

A Genève, la Commission, ou plutôt son groupe de travail non officiel, laissa de côté l'article litigieux pour s'attaquer à une question connexe encore plus controversée, celle des conditions fondamentales d'exploitation. La question avait été soulevée lorsque certains Etats, dont les ressortissants envisagent d'exploiter les ressources des grands fonds marins, avaient insisté pour que le traité renferme des clauses et des règlements d'exploitation détaillés auxquels l'Autorité et les exploitants seraient tenus de se conformer. Ainsi, les exploitants éventuels auraient l'assurance que l'Autorité ne peut, par l'imposition de règlements, s'ingérer dans leurs projets et peut-être compromettre des investissements considérables. Selon sa propre interprétation des "conditions fondamentales", le Groupe des 77 était prêt à accorder certaines garanties aux exploitants, comme la garantie de jouissance, par exemple, mais il octroyait en même temps à l'Autorité de vastes pouvoirs.

Les discussions piétinèrent un certain temps, les diverses parties s'en tenant à leur interprétation respective des conditions fondamentales, telles qu'elles apparaissaient dans un tableau comparatif dressé par le président du Groupe, M. C. Pinto, de Sri Lanka. Ce n'est qu'au moment de l'étude des conditions fondamentales se rapportant aux dispositions financières et contractuelles entre l'Autorité et les exploitants que le débat s'engagea vraiment. M. Pinto, reprenant une idée d'abord émise à Caracas par la délégation canadienne, préconisa la formule de l'entreprise conjointe parce qu'elle offrait un terrain d'entente aux nations industrialisées et aux nations en voie de développement. Dans la discussion qui s'ensuivit, il apparut que les deux camps avaient modifié leurs positions originales.

Certains membres du Groupe des 77, se fondant sur l'expérience de leur pays dans ce domaine, soulignèrent la grande souplesse des entreprises conjointes et en mentionnèrent les nombreux avantages. Une certaine forme de lien contractuel avec l'Autorité, autre que les simples contrats de services, apparaissait dès lors acceptable. Dans le camp adverse, le Royaume-Uni, laissant de côté le vague mécanisme de délivrance des permis qu'elle avait prôné à Caracas, se déclara en faveur d'accords conjoints prévoyant un partage des revenus (par opposition au partage de la production). Les Etats-Unis manifestèrent également leur bonne volonté en proposant que l'exploitation de la Zone se fasse selon un double système d'entreprises conjointes, dans lequel l'Autorité aurait carte blanche pour négocier des contrats relatifs à l'exploitation d'une moitié de la zone internationale des fonds marins, tandis que l'autre moitié serait mise en valeur conformément aux conditions fondamentales d'exploitation.

Profitant de cette amorce d'entente, M. Pinto décida de présenter, sur le sujet des conditions fondamentales d'exploitation, un texte neutre qu'il avait rédigé à la lumière de la discussion et des propositions officielles. Il s'était notamment inspiré de la proposition du Groupe des 77, parce qu'en raison du grand nombre de ses co-auteurs, son importance politique était incontestable. Chacune des parties trouvait que le document Pinto, dans ses éléments essentiels, reflétait trop fidèlement les positions de l'autre partie. En fait, seule la délégation canadienne déclara publiquement qu'elle pouvait en principe accepter le texte, moyennant

quelques légères modifications. M. Pinto modifia donc sa proposition, qui figure maintenant sous sa forme révisée dans le texte unique de négociation de la première Commission.

Bien qu'elle n'ait pas tranché les problèmes majeurs dont elle était saisie, la Commission a tout de même accompli quelques progrès notamment lors de la discussion sur les entreprises conjointes, au cours de laquelle les participants ont pu se familiariser avec les multiples aspects juridiques et techniques de l'exploitation minière sous-marine. Au point où en sont les choses, il y a lieu d'espérer que la formule des entreprises conjointes permettra de combler le fossé entre les nations industrialisées et les nations en voie de développement, en dépit du climat de méfiance réciproque qui caractérise les délibérations sur cette importante question.

Le texte unique de négociation rédigé par le président de la Commission, M. P. Engo, du Cameroun, renforce la position commune adoptée par le Groupe des 77 sur la plupart des questions à l'étude. Il se peut toutefois que les intérêts légitimes de l'autre partie , dont les membres possèdent la capacité technique et financière d'exploiter pour eux-mêmes (et pour l'humanité toute entière, espère-t-on) les ressources de la Zone, ne soient pas suffisamment représentés. Bon nombre des solutions proposées au sujet du régime juridique de la Zone et de la structure de l'Autorité internationale des fonds marins pourraient poser de sérieuses difficultés, au moment de les appliquer.

Les questions traditionnelles du droit de la mer

La deuxième Commission, chargée de résoudre les principaux problèmes de juridiction, se révéla impuissante, la session de Genève durant, de donner une forme définitive au document intitulé "Tendances générales", qui avait été rédigé à Caracas et renfermait, sur chacun des points à l'étude, les diverses propositions ayant reçu l'appui d'un grand nombre d'Etats. Une deuxième lecture du document ne suffit pas à éliminer les textes de remplacement parce que les délégations refusaient de faire, au sein de cet organe officiel, des concessions qui risquaient de compromettre leurs positions dans les organes non officiels tels que le Groupe Evensen, le Groupe des 77 et les autres groupes d'intérêt privé, où les véritables négociations étaient en cours.

La mer territoriale et les détroits servant à la navigations internationale

Les délibérations de la Commission sur la question de la mer territoriale ou sur celle de l'utilisation des détroits servant à la navigation internationale n'apportèrent aucun élément nouveau digne d'être mentionné. La partie II du texte unique rédigée par le président, M. Galindo Pohl, du Salvador, propose une largeur de 12 milles pour la mer territoriale, ce qui est conforme à la pratique actuelle de la majorité des Etats. Le régime du passage inoffensif des navires étrangers dans la mer territoriale demeure à peu près identique à ce qu'il était dans la Convention de 1958 sur la mer territoriale. Il s'en distingue cependant sur un point: au lieu de laisser à l'Etat côtier le soin de porter un jugement selon sa propre réglementation, le texte énonce une série de critères objectifs permettant de déterminer si le passage d'un navire étranger porte atteinte à la paix, au bon ordre et à la sécurité de l'Etat côtier (ou ne peut plus être qualifié d'inoffensif). Par ailleurs, le texte unique ne redéfinit pas le passage "non inoffensif" et ne mentionne pas, de ce fait, les cas où il y a menace de pollution, comme le préconise le Canada avec l'appui d'un nombre croissant d'Etats.

Le chapitre consacré exclusivement aux détroits servant à la navigation internationale reprend pour l'essentiel une proposition britannique déposée à Caracas sous une forme cependant légèrement modifiée. Les détroits auxquels le texte fait allusion sont ceux qui servent à la navigation internationale; ils ne font donc pas partie des eaux intérieures. Cette définition semblerait satisfaisante du point de vue canadien puisqu'elle exclut, entre autres, le Passage du Nord-Ouest. Dans la plupart des détroits servant à la navigation internationale, on établirait, en faveur des navires étrangers, un régime de passage en transit libre, réduisant ainsi considérablement les risques d'une intervention des Etats côtiers. Cependant, les discussions de Genève n'ont laissé transparaître aucun fléchissement de la résolution des Etats bordant les détroits internationaux de maintenir, sur ces voies

navigables, le régime du passage inoffensif. La question des détroits est donc en suspens pour l'instant et il y aura sans doute fort à faire pour la régler dans les sessions à venir.

Les pêcheries

Parmi les points fondamentaux, c'est sur celui de la juridiction en matière de pêcheries que l'unanimité s'est le mieux dégagée au cours des huit semaines. Tant le Groupe des 77 que le Groupe Evensen ont étudié la question à fond, l'un proposant des solutions très avantageuses pour les Etats côtiers et l'autre prévoyant un certain nombre de garanties visant à protéger les intérêts des Etats que pratiquent la pêche hauturière. Il est maintenant généralement reconnu que l'Etat côtier peut exercer des droits souverains exclusifs sur les ressources biologiques de sa zone économique de 200 milles de largeur. Les articles rédigées par le Groupe Evensen en matière de pêche sont conformes à ce principe de base et sont reproduits presque textuellement dans le texte unique de négociation.

Le texte unique stipule qu'en vertu de ses droits souverains, l'Etat côtier exerce une juridiction exclusive sur les stocks de la zone économique, y compris le droit de fixer lui-même la prise maximale admissible. Ses réglementations en matière de gestion et de conservation doivent encourager la récolte des ressources biologiques jusqu'à un point de rendement maximal, sans toutefois permettre une surexploitation de la zone économique. L'Etat côtier aurait droit à toute la part de la prise admissible qu'il a la capacité de récolter, le reste étant à la disposition des flottes de pêche étrangères de façon à assurer une utilisation optimale des ressources et à éviter tout gaspillage. Les activités des flottes de pêche étangères seraient ent tout temps soumises à la réglementation de l'Etat côtier.

Les revendications canadiennes en faveur d'un régime spécial pour les espèces anadromes comme le saumon ont au moins atteint leur objectif à court terme puisque le problème est soulevé dans le texte unique. Il s'agit en soi d'un véritable succès pour le Canada. L'article

relatif au saumon, qui reconnaît les droits et les devoirs de l'Etat dans les eaux duquel les espèces anadromes se reproduisent, est le fruit de longues discussions menées au sein d'un groupe comprenant des Etats d'origine et des Etats qui ont toujours pratiqué la pêche des poissons anadromes. En principe, la pêche des espèces anadromes au-delà de la zone économique est interdite, mais les Etats qui la pratiquent depuis longtemps sont autorisés à continuer de la faire pourvu qu'ils se conforment à la réglementation de l'Etat d'origine. Cette disposition répond dans une large mesure aux préoccupations canadiennes visant à limiter l'entrée dans ses eaux de nouvelles nations pêcheuses. Enfin, si les populations de poissons anadromes émigrent dans la zone économique d'un autre Etat, celui-ci doit s'entendre avec l'Etat d'origine sur les mesures à prendre en matière de gestion et de conservation.

Toujours au chaptire des pêcheries, il est un objectif canadien auquel le texte unique ne répond pas entièrement; il s'agit des droits préférentiels de l'Etat côtier sur les populations de poissons qui évoluent juste au-delà de la zone économique. Le texte reste vague à ce sujet: les Etats pêchant dans ce secteur seraient simplement tenus de chercher à s'entendre avec l'Etat côtier sur les mesures à prendre pour la conservation (mais non la gestion) de ces stocks. Les nations qui pêchent en eaux lointaines voient d'un mauvais oeil la position qu'a adoptée le Canada à ce sujet, et que partage un certain nombre d'autres Etats, mais les négociations à venir permettront sans doute d'en arriver à une solution satisfaisante. Le régime juridique applicable aux espèces sédentaires, c'est-à-dire ces espèces qui, comme les huîtres, passent la plus grande partie de leur vie en contact avec le fond de la mer, demeure inchangé dans le texte unique. L'Etat côtier peut donc, de façon exclusive, exercer tous les droits sur les espèces sédentaires qu'il trouve sur sa marge continentale.

Le plateau continental

Comme nous l'avons déjà dit, la majorité des Etats parties à la Conférence considèrent la zone économique exclusive d'une largeur de 200 milles comme un élément essentiel du futur traité sur le droit de la mer. Il en résulte que l'Etat côtier se verrait accorder des droits souverains sur les ressources minérales s'étendant jusqu'à 200 milles de ses côtes, que son plateau continental aille jusque-là ou non. On s'éloigne ici considérablement du droit traditionnel, mais cette orientation est indispensable si l'on veut que les Etats dont la marge continentale est étroite ou inexistante ne se sentent pas lésées.

Un des problèmes les plus difficiles sur lesquels la Conférence a buté est celui des revendications des Etats qui ont jusqu'ici exercé des droits souverains sur des marges s'étendant au-delà de la limite de 200 milles. Au sein du Groupe Evensen, un certain nombre d'Etats sans littoral, et donc géographiquement désavantagés, n'acceptent pas que l'Etat côtier ait des droits sur les ressources minérales situées au-delà de la limite. Plus encore, un représentant africain, parlant supposément au nom de tous les Etats du continent africain, s'est dit tout à fait de cet avis. La Conférence devra donc s'efforcer de trouver un compromis entre les tenants stricts de la limite de 200 milles et les Etats à large plateau continental, tels le Canada, l'Inde, l'Australie, l'Argentine, la Norvège et le Bangladesh, qui fondent leurs revendications sur les clauses de la Convention du plateau continental de 1958, sur la définition du plateau adoptée en 1969 par la Cour internationale de Justice, ainsi que sur la pratique nationale déjà établie.

Le texte unique, basé sur des articles étudiés par le Groupe Evensen, dit que le plateau continental, dans son acception juridique, s'étend jusqu'à la limite externe de la marge continentale, ou jusqu'à 200 milles des côtes lorsque la marge continentale ne va pas jusque-là. Par ailleurs, conformément aux dispositions de la Convention de 1958 sur le plateau continental, il stipule que les étrangers doivent d'abord recevoir l'approbation de l'Etat côtier avant d'y entreprendre toute activité de recherche ou de forage.

La définition du plateau continental est toutefois liée, dans le texte, à un autre article en vertu duquel l'Etat côtier est tenu de partager avec la communauté internationale les revenus qu'il tire de l'exploitation des ressources minérales dans la partie de sa marge continentale qui excède la limite de 200 milles. Seule une telle obligation, pense-t-on généralement, pourrait contrebalancer la confirmation, par la Conférence, des droits souverains exclusifs de l'Etat côtier sur sa marge continentale au-delà de 200 milles et fournir de la sorte l'élément d'équité qui mènerait à une solution satisfaisante du problème. Pour qu'on s'entende sur la question, le Canada a indiqué qu'il était disposé à accepter la formule du partage de revenus, à deux conditions: d'abord, que toute entente, quelle qu'elle soit, ne porte pas atteinte à ses droits souverains établis sur la marge jusqu'à son rebord externe; et en second lieu, que les contributions financières soient versées avant tout aux pays en voie de développment, et en particulier aux moins développés d'entre eux.

Les îles et les archipels

Une autre question longuement débattue fut celle des îles, question intéressant tous les Etats côtiers et le Canada tout spécialement, puisqu'il est entouré de plus de 52,000 îles. Encorce une fois, deux écoles de pensée se sont opposées, l'une soutenant qu'une île fait partie intégrante d'un Etat et, à ce titre, a droit à la même juridiction maritime; l'autre essayant de démêler les multiples circonstances qui devraient, à son avis, limiter la zone de juridiction maritime autour des îles, des îlots ou des rochers. La position adoptée par le texte unique sur ce point est à peu près celle du premier groupe, sauf que les rochers inhabitables ou privés d'une vie économique qui leur serait propre ne pourraient être entrourés d'une zone économique exclusive, ni d'un plateau continental.

Dans ce contexte, on a longuement débattu les règles applicables aux Etats archipels, c'est-à-dire ces Etats dont le territoire est constitué uniquement d'îles séparées par des eaux intérieures ou "archipélagiques",

au-delà desquelles s'étendent la mer territoriale et la zone économique. Le texte unique a retenu la notion des eaux archipélagiques. Les articles qui traitent de la question sont, cependant, sans préjudicie du statut des archipels qui, comme l'archipel arctique, font partie intégrante du territoire d'un Etat continental.

Le milieu marin

A Caracas, les travaux de la troisième Commission avaient révélé l'existence d'un consensus en faveur d'un traité ou d'un chapitre cadre destiné à couvrir tous les aspects de la pollution marine et à servir de lien entre les diverses conventions actuelles et futures. On avait pu, de là, rédiger les premiers articles relatifs à l'obligation des Etats de protéger le milieu marin et de coopérer, à ce titre, au niveau international et régional. A Genève, la troisième Commission a progressé davantage dans l'élaboration du chapitre cadre en statuant sur les aspects fondamentaux des questions suivantes: la surveillance des activités susceptibles d'engendrer la pollution, l'évaluation des répercussions écologiques des activités projetées; les obligations des Etats au chapitre de la pollution marine causée par les activités entreprises sur terre et sur le plateau continental; et le déversement des déchets en mer.

La Commission s'est efforcée de trouver une formule qui tienne compte des intérêts particuliers des Etats en voie de développement. Ces derniers ne voudraient pas, en effet, être tenus de se conformer à des normes trop strictes de lutte contre la pollution alors qu'ils ne disposent pas des ressources financières et techniques voulues et qu'ils se préoccupent avant tout de leur développement économique. La position que le Canada a adoptée sur cette question est celle de la recherche d'un juste équilibre entre l'imposition de mesures énergiques et efficaces pour la préservation du milieu marin et la reconnaissance des besoins et des problèmes particuliers des Etats en voie de développement. Une solution proposée par la délégation canadienne consisterait à fournir à ces pays technologie et assistance, de sorte qu'ils puissent, d'une part, profiter des droits que leur conférera la future convention

sur le droit de la mer et, d'autre part, s'acquitter des obligations qui en résulteront.

Une autre question épineuse est celle de savoir s'il faut accorder aux Etats côtiers les pouvoirs de fixer et d'appliquer leurs propres normes en ce qui a trait à la pollution causée par les navires dans leur mer territoriale et leur zone économique. Un certain nombre de puissances maritimes voient d'un très mauvais oeil de tels pouvoirs, craignant qu'on ne les utilise pour entraver la navigations et interdire le passage à certains navires. Le Groupe Evensen a entamé des discussions préliminaires sur cette question, à la lumière d'une proposition soumise à l'origine par le Canada. Mais, faute de temps, il n'a pas été possible de combler le fossé entre les puissances maritimes qui cherchaient à préserver de toute usurpation la juridiction de l'Etat du pavillon et les Etats côtiers qui revendiquaient une réglementation leur permettant de se protéger efficacement contre les menaces de pollution par les navires. Un nombre croissant de pays se déclarait toutefois en faveur de l'octroi de certains droits aux Etats côtiers, sous réserve que ces droits soient clairement définis et limités.

La partie du texte unique rédigée par le président de la troisième Commission, M. Yankov (Bulgarie), renferme bon nombre des dispositions considérées comme les éléments essentiels d'un chapitre cadre sur la préservation du milieu marin. Le lacune majeure, c'est qu'il fait entièrement abstraction de l'importance attachée à la zone économique de 200 milles et de la compétence concomitante de l'Etat côtier pour y préserver le milieu marin. Ainsi, l'Etat côtier ne peut décréter ses propres règlements en vue de faire échec à la pollution causée par les navires dans sa zone économique ou même dans sa mer territoriale. L'application des seules normes universellement reconnues en la matière incombe donc presque exclusivement aux Etats d'immatriculation des navires et, dans certains cas précis, aux Etats dans les ports desquels les navires polluants font escale. A toutes fins pratiques, l'Etat côtier ne jouit d'aucun pouvoir coercitif.

Le texte unique renferme par contre une disposition à laquelle le Canada attache la plus haute importance. S'écartant de la règle générale qu'il propose pour la zone économique, il autoriserait l'Etat côtier à décréter et à faire observer ses propres lois et règlements non discriminatoires pour assurer la protection du milieu marin dans les régions vulnérables, où l'équilibre de l'environnement est extrêmement fragile et où un climat particulièrement rude risque d'entraver ou de rendre extrêmement périlleuse la navigation. Si elle est retenue dans le traité final, cette disposition confirmera le droit du Canada de prendre des mesures spéciales pour protéger le milieu marin dans l'Arctique, comme il l'a déjà fait en 1970 lorsqu'il a adopté la Loi sur la prévention des eaux arctiques. On espère que l'inclusion de cette règle spéciale dans le texte unique contribuera grandement à promouvoir l'objectif canadien de protection des "régions vulnérables".

La recherche scientifique

A partir de l'accord provisoire conclu à Caracas sur les principes généraux régissant la recherche scientifique marine et la coopération internationale et régionale, la troisième Commission a progressé dans la bonne voie en proposant des articles portant sur le régime des installations scientifiques étrangères dans la zone économique d'un Etat côtier et sur la responsabilité et les obligations de la nation étrangère dans les cas de dommages causés à l'Etat côtier pendant l'exécution d'un programme de recherche scientifique.

Il a été impossible de se mettre d'accord sur la question controversée du droit de regard de l'Etat côtier sur les recherches scientifiques effectuées dans sa zone économique par des nations étrangères. La lutte est engagée entre, d'une part, les Etats qui considèrent que de telles recherches doivent être effectuées pourvu que l'Etat côtier en ait été avisé à l'avance et invité à y participer et, d'autre part, les nombreux Etats côtiers en voie de développement qui maintiennent que toute recherche ne saurait être entreprise sans leur autorisation

préalable. La position canadienne sur ce point consiste à assortir à l'obligation d'un avis préalable, le droit ultime, pour l'Etat côtier, de refuser l'autorisation en cas de désaccord.

Par ailleurs, la proposition faite par un certain nombre d'Etats de l'Europe de l'Est de n'assujettir à l'autorisation de l'Etat côtier que les recherches portant sur les ressources ne semble pas de nature à régler le problème. Appuyé par un grand nombre d'Etats côtiers, le Canada a en effet objecté que cette formule poserait des difficultés insurmontables dans la pratique, puisque certains Etats seraient tentés de passer, sous le couvert de la recherche "pure", des programmes scientifiques mettant en jeu les ressources ou là sécurité de l'Etat côtier.

Les articles du texte unique (III^{e} partie) portant sur la recherche scientifique marine ne répondent pas entièrement aux objectifs des Etats côtiers (et, par conséquent, à ceux du Canada). Par contre, ceux qui traitent de la zone économique (II^{e} partie) reconnaissent expressément la juridiction exclusive de l'Etat côtier sur les recherches effectuées dans sa zone. Lors de la prochaine session, la Conférence devra donc tâcher de rendre compatibles ces dispositions contradictoires. De plus le texte unique de la troisième Commission ne reconnaît même pas à l'Etat côtier le droit de déterminer par lui-même la nature de recherches qui seront entreprises et stipule que même un avis préalable suffit dans le cas de la recherche fondamentale. En fin de compte, l'Etat côtier n'aurait pas le droit de refuser un projet de recherche pouvant porter atteinte à sa propre sécurité.

Le transfert des techniques

L'initiative du Groupe des 77, à Genève, lorsqu'il a déposé vers la fin de la session une série d'articles révisés couvrant en grande partie la question du transfert des techniques, mérite d'être signalée. Les propositions présentées posaient toutefois un certain nombre de problèmes aux pays développés, notamment l'insuffisance des garanties offertes aux titulaires des brevets protégeant la technologie à transférer et l'expansion du rôle de la future Autorité internationale des fonds marins dans ce domaine.

Le Canada a adopté une position équilibrée vis-à-vis des articles du Groupe des 77 en soulignant, en plus des empêchements au transfert de la technologie brevetée, qu'il était indispensable que les pays développés bénéficient de la technologie d'exploitation des océans.

Le texte unique de la troisième Commission sur cette question semble favoriser davantage les Etats développés que les Etats en voie de développement. Il ne reflète pas fidèlement la proposition du Groupe des 77, bien que cette dernière ait été la seule à être présentée officiellement à la Conférence. Il n'oblige pas, mais exhorte seulement, les Etats à transférer leur technologie. Les opinions des membres du Groupe des 77 n'y sont pas représentées de façon adéquate, et ceux-ci tenteront sans aucun doute de faire modifier considérablement les solutions proposées.

Conclusion

Bien qu'il reste encore à conclure un traité final sur le droit de la mer, le travail qu'ont accompli les quelque 2,500 délégués au cours des huit semaines à Genève a été très fructueux. La Conférence a fait un grand pas en avant, maintenant qu'elle a cerné de façon plus précise le concept de la zone économique exclusive, pierre angulaire de la structure juridique où seront définis les droits et les devoirs des Etats côtiers et autres. C'est grâce aux compromis consentis par ceux qui considèrent plutôt la zone comme une mer territoriale et par ceux qui maintiennent qu'elle fait partie de la haute mer que la situation a pu se clarifier de la sorte.

Le texte unique de négociation n'a pas force de loi et il faudra le parfaire avant qu'il ne puisse devenir le traité final, mais en raison de l'importance particulière qu'il revêt déjà, il servira sans aucun doute de point de départ aux discussions dans les sessions à venir de la Conférence. Le texte unique est bien vu du côté canadien puisqu'il répond généralement aux objectifs du Canada dans les domaines

des pêcheries (celle du saumon, en particulier), de la marge continentale et de la protection du milieu marin dans les régions vulnérables.

Les questions sur lesquelles le texte unique ne propose aucun compromis, comme celles des détroits servant à la navigation internationale de la protection du milieu marin en général et du régime d'exploitation des ressources des grands fonds marins, pourront être soulevées de nouveau et discutées jusqu'à ce qu'interviennent des solutions qui satisfassent les divers intérêts en jeu.

Mais par-dessus tout, la session de Genève a démontré que la Conférence sur le droit de la mer ne parviendra à conclure un traité global valable et acceptable à la majorité des parties que si le nouveau régime qu'elle propose pour les océans est équitable et fondé sur de bons principes de gestion. En d'autres termes, il est nécessaire que les droits accordés aux Etats soient compensés par des devoirs et des obligations visant à protéger les droits et les intérêts légitimes des autres Etats.

ENVIRONMENTAL LAW

The reciprocal obligations of Canada and the United States under Article IV of the Boundary Waters Treaty of 1909 continued to play a prominent role in bilateral environmental discussions between the two governments over the past year. Under that article, the two countries agreed that boundary waters and waters flowing across the boundary "shall not be polluted on either side to the injury of health or property on the other".

This obligation has formed the basis for discussions between the two Governments on the Garrison Diversion Unit, an irrigation scheme which would divert the waters of the Missouri River to irrigate one quarter million acres in North Dakota and direct return flows into the Souris and Red Rivers. On the basis of studies conducted in the United States and in Canada, the Canadian Government has concluded that if the project is completed according to present plans, it will have adverse effects on the Canadian portions of the Souris, Assiniboine and Red Rivers and on Lake Winnipeg which would cause injury to health and property in Canada in contravention of Article IV of the Boundary Waters Treaty.

The United States Government has formally confirmed its obligation under Article IV of the Treaty, and has informed the Canadian Government that this obligation will be honoured. The discussions between officials of the two Governments have been directed toward ensuring that transboundary pollution resulting in a breach of the Treaty does not occur, and have resulted in the preparation of a reference to the International Joint Commission under Article IX of the Boundary Waters Treaty.

The Commission will be requested to examine into the transboundary implications of the Garrison project and to make recommendations as to such measures, including modifications, alterations or adjustments to the Garrison Diversion Unit, ensuring that the provisions of Article IV are honoured. The recommendations of the Commission in response to a reference under Article IX of the Treaty are not binding, and under the terms of that Article shall in no way have the character of an arbitral award. The text of a reference has been drafted by officials of the two Governments and has been approved by the Government of the United States. It is currently under consideration at the political level in the Government of Canada.

Another area in which the Governments of Canada and the United States have held discussions prior to the implementation of a project to ensure that the obligation under Article IV of the Boundary Waters Treaty not to pollute to the injury of health or property is met involves a power project to be constructed by the Saskatchewan Power Corporation on the East Poplar River near Coronach Saskatchewan. The project will consist of a coal-fired thermal electric generating station, a reservoir created by damming the East Poplar River two and one-half miles north of the international boundary to provide cooling water for the station, and a coal strip-mining operation nearby to provide the necessary fuel.

On February 10, 1975, the Department of State in a Note to the Canadian Embassy in Washington expressed the concern of the USA Government that the proposed Poplar River Power Project and its associated coal mining "...could result in transboundary air and water pollution, damage to USA fisheries, wildlife, and the Poplar River's acquatic ecosystem, adverse changes in the water temperature of the river, and preclude developments on the USA reach of that river". The Note also expressed the concern that "consumption of water by this project may exceed an equitable apportionment of the waters of the Poplar River to the detriment of uses in the USA ".

The Note in reply, dated February 13, 1975, from the Canadian Embassy to the State Department stated that "...before the project proceeds to the construction stage, the Province of Saskatchewan is required to make formal application for a licence from the Federal Minister of the Environment under the International Rivers Improvements Act. It is a requirement of the regulations issued under this Act that an assessment of transboundary effects be undertaken before any licence can be issued. Moreover, it is possible to include conditions in any such licence which will ensure that the project is so operated as to meet Canada's obligations under the Boundary Waters Treaty. If a licence were issued, it would be the intention of the Canadian authorities to include conditions which would be required to enable Canada's obligations to be met".

Construction of the project is proceeding. The authorization issued to the Saskatchewan Power Corporation by the Saskatchewan Department of the Environment under the provincial Water Rights Act states that "This Authorization is issued subject to the terms of the Boundary Waters Treaty (1909); as well as to any terms and conditions that may be

imposed by a licence under the International Rivers Improvements Act."

One of the "Terms and Conditions" included in the licence issued by the Federal Minister of the Environment to the Saskatchewan Power Corporation under the International Rivers Improvements Act states that "the licensee shall construct, operate and maintain the improvement in such manner as shall not contravene any provision of the International Boundary Waters Treaty of 1909."

Another condition of the licence states that "the licensee shall comply with such terms and conditions relating to water apportionment as may be imposed by the Minister, following a recommendation by the International Joint Commission and acceptance thereof by Canada and the United States of America". The IJC, through its International Souris-Red Rivers Engineering Board is currently carrying out an apportionment study of the waters in the Poplar River Basin in the context of a Reference on the Souris and Red River Basins submitted to the Commission in 1948.

Technical discussions are continuing concerning potential effects of the project on air quality. This aspect of the problem is also currently under study by the IJC's Air Pollution Advisory Board constituted under an earlier reference by the Governments of Canada and the United States. The Board's report is expected to be completed in the near future.

Another transboundary environmental problem to which the Boundary Waters Treaty is applicable concerns the Skagit Valley in British Columbia, although in this case flooding and not pollution is involved. The roots of the problem date back to 1941 when the City of Seattle applied to the International Joint Commission under the terms of the Boundary Waters Treaty for authority to raise the water level of the Skagit River by increasing the height of the Ross Dam in the State of Washington, the effect of which would be to flood approximately 5,475 acres of land in British Columbia. In a 1942 Order the Commission gave its approval subject to certain conditions, one of which was that Seattle adequately compensate Canadian interests that might be affected. In 1967 British Columbia and Seattle concluded a binding compensation agreement. Since 1967 public concern over the environment has increased and British Columbia is now opposed to the proposed flooding, a position which is supported by the Government of Canada.

In June 1974, the Government of British Columbia presented a "request" to the International Joint Commission challenging the legal validity of the 1942 Order. The Commission, in response, asked the four governments involved for opinions on whether the Commission had jurisdiction to review its 1942 Order. Briefs were submitted by the four governments but the Commission has deferred any decision on the matter pending the outcome of negotiations in which the City of Seattle and British Columbia are attempting to reach a private settlement of the dispute.

Environmental issues arising from proposed activities in coastal areas have also been the subject of discussions between Canada and the United States over the past year.

On the West Coast, the threat to the environment posed by the intensification of tanker traffic in the Puget Sound area which will occur as a result of the transportation of North Slope oil from Alaska to the west coast of the United States has been the subject of continuing discussions. A part of these discussions has been aimed at assessing the adequacy of the remedies available to Canadians under the provisions of the Trans-Alaska Pipeline Authorization Act. A recent development in this regard has been the introduction in Congress by the U.S. Administration on July 9, 1975, of a "Comprehensive Oil Pollution Liability and Compensation Act" which will supercede the liability and compensation provisions of the Trans-Alaska Pipeline Authorization Act.

On the Atlantic coast the proposal by the Pittston Company to build an oil refinery and terminal at Eastport, Maine, presents environmental dangers for Canada. The tankers supplying the Pittston refinery would have to pass through Canadian waters (pollution control zones/Bay of Fundy/territorial sea and internal waters) in order to gain access to Eastport, and there would be a serious risk to the Canadian marine environment resulting from such traffic. The Canadian Government has expressed to the United States authorities the Government's strong opposition to the carriage of oil through the Canadian waters concerned.

On June 4, 1975, Pittston received the approval of the Maine Board of Environmental Protection to proceed with construction of the refinery. However, approval was given subject to certain conditions which

included executing agreements with, or otherwise securing approval or permits from appropriate Canadian authorities regarding transit through, and pilotage in Canadian waters, and installation, construction, maintenance and use of navigational aids in Canadian territory; or providing to the Board certificates from appropriate Canadian officials stating that no such agreements, approval, or permits are required.

Pittston has not yet approached the Government of Canada seeking to meet the conditions attached to the Boards's approval.

An Agreement between Canada and the United States relating to the Exchange of Information on Weather Modification Activities was signed on March 26th in Washington, DC, at the State Department. The Honourable Jeanne Sauvé, Minister of the Environment signed on behalf of Canada, and Christian Herter Jr., Deputy Assistant Secretary of State for Environmental and Population Affairs, signed on behalf of the United States.

The Agreement provides for an exchange of information on weather modification activities in the territory of one of the countries which are likely to have an effect within the territory of the other, and requires prior notification and consultation with regard to activities carried out by either of the two federal governments which are likely to have an effect within the territory of the other.

A review and amendment mechanism has also been provided to enable new developments in the technology of weather modification, which is now in a somewhat rudimentary state, to be reflected in the Agreement.

There have also been several developments on the multilateral plane. Canada has passed but has not yet proclaimed legislation implementing the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. The fifteenth ratification of that Convention was deposited by Panama on July 31, 1975, bringing it into force on August 30, 1975. Under the terms of the Convention, an organizational meeting of the Parties must be called within ninety days of its coming into force. It is anticipated that the Ocean Dumping Control Act will be proclaimed and Canada's instrument of ratification deposited and the Convention in force for Canada in sufficient time for Canada to participate in that meeting as a full Party to the Convention.

The United Nations Environment Programme (UNEP) has continued to be involved in international legal activities over the past year. The

Governing Council, at its Third Session, held from April 17 to May 2, 1975, requested the Executive Director to undertake a broad programme of promotion and coordination of the development and codification of environmental law, with emphasis on its preventive character, and in particular to provide technical assistance to developing countries at their request for the development of their national environmental legislation.

While the Governing Council at its Third Session concluded that it is premature to develop an international agreement on weather modification, a proposal by the Executive Director for a further meeting of experts on weather modification was approved. In preparation for the eventual development of weather modification guidelines UNEP will support World Meterological Organization programmes for the augmentation of precipitation and the evaluation of weather modification experiments.

Also at its Third Session, the Governing Council requested the Executive Director to establish an intergovernmental working group of experts, to be drawn from among member states of the Governing Council to prepare draft principles of conduct for the guidance of States in the conservation and harmonious exploitation of natural resources shared by two or more States. The origins of this subject are to be found in the failure of the Stockholm Conference in 1972 to include in the Stockholm Declaration a principle relating to the duty of states to notify and provide information to other states regarding activities which could have an extra-territorial adverse environmental effect. This subject was discussed further at the Twenty-seventh and Twenty-eighth Sessions of the United Nations General Assembly. At the Twenty-eighth Session, Resolution 3129 (XVIII) was adopted which included a formulation of the "duty to consult" principle in the context of "adequate international standards for the conservation and harmonious exploitation of natural resources common to two or more states...". This resolution requested the UNEP Governing Council to take duly into account these principles and "to report on measures adopted for their implementation...".

At its Second Session in 1974, the Governing Council requested the Executive Director in cooperation with other U.N. Organizations to

prepare a study and make proposals to implement the provisions of Resolution 3129 (XXVIII).

It was in response to the recommendation in the Executive Director's Report on this subject to the Third Session of the Governing Council that the decision was taken to have an intergovernmental group of experts prepare draft principles of conduct. Canada has been asked to participate in the work of the Group which will hold its first meeting in late 1975 or early 1976.

The question of international legal control of the military use of weather modification activities has received a great deal of attention over the past year. In a joint statement issued in July, 1974, the USA and the USSR advocated measures to overcome the dangers of the use of environmental modification techniques for military purposes and undertook to meet in order to explore the problem. Subsequently the USSR submitted a draft resolution to the Twenty-ninth Session of the U.N. General Assembly in 1974, together with a draft convention for the "prohibition of action to influence the environment and climate for military purposes". The General Assembly's Resolution 3264 (XXIX) took note of the Soviet draft and asked the Conference of the Committee on Disarmament (CCD) to proceed as soon as possible to achieve agreement on the text of a convention and to report the results to the General Assembly at its Thirtieth Session. In August, 1975, the CCD held a meeting of technical experts in Geneva which was attended by representatives of the WMO and UNEP. On August 21, the USA and the USSR tabled in the CCD parallel draft conventions on the prohibition of military or any other hostile use of environmental modification techniques. No discussion of these drafts has yet taken place. It is likely that the U.N. General Assembly at its Thirtieth Session will request the CCD reach agreement on the text of a convention as soon as possible and report back to the General Assembly at its Thirty-first Session.

The Organization for Economic Cooperation and Development (OECD), of which Canada is a member, has also become involved in some areas of international law relating to transfrontier pollution. From 1971 to 1973 the Sub-Committee of Economic Experts, a sub-committee of OECD's Environment Committee produced a number of economic studies concerning

transfrontier pollution. However, in 1973 the Environment Committee decided that an analysis of the administrative, legal and institutional aspects of transfrontier pollution should be undertaken, and therefore a new group, the Ad Hoc Group on Transfrontier Pollution was created. The Ad Hoc Group prepared the text of an action proposal setting out various principles which was approved in the form of a "Recommendation of the Council on Principles Concerning Transfrontier Pollution" by the Environment Committee, meeting at ministerial level in November 1974, and by the OECD Council. This document recommended that member countries should be guided in their environmental policy by the principles contained therein, and that they should cooperate in developing international law relating to transfrontier pollution.

The mandate of the Ad Hoc Group having expired, the Environment Committee established in February, 1975, another multidisciplinary group called the Transfrontier Pollution Group to examine problems of transfrontier pollution. The mandate of the new Group will continue for two years, at which time it will be reviewed by the Environment Committee.

Two meetings of the Group have been held. The first was held in April and was basically an organizational meeting, and the second, which was held in July, was devoted mainly to discussion of the responsibility and liability of states for injury resulting from transfrontier pollution. This and equality of access to national tribunals were designated by the Council as priority subjects in their instructions to the Environment Committee contained in the "Recommendation of Council on Principles Concerning Transfrontier Pollution". Equality of access formed the subject of a questionnaire which was submitted to member governments in May and will be discussed at the third meeting of the Group in December, 1975.

Humanitarian Law in Armed Conflicts

The second session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convoked by the Swiss Federal Council in cooperation with the International Committee of the Red Cross (ICRC), was held in Geneva from February 3rd to April 18th, 1975. The Canadian Delegation was headed by the Director of Legal Operations Division of the Department of External Affairs and the alternate Head of Delegation was the Deputy Judge Advocate-General of the Department of National Defence. The first session of the Diplomatic Conference had been held in Geneva February 20 - March 29, 1974 and a third session is now scheduled to take place from April 21st to June 11th, 1976.

This Diplomatic Conference represents the culmination of four years of preparatory work which has been conducted under the auspices of the ICRC in cooperation with the United Nations, to which Canada has been a major contributor. It is hoped that the Diplomatic Conference will approve and adopt two Additional Protocols which will reaffirm and update the four Geneva Conventions of August 12, 1949 for the Protection of War Victims.

The need to reaffirm and supplement those four Conventions, in order that they might better reflect the realities of contemporary armed conflict situations, particularly "non-international" armed conflicts, was identified by the ICRC and acknowledged by the 21st International Conference of the Red Cross which was held in Istanbul in 1969.

In 1971 and 1972, two Conferences of Government Experts on humanitarian law were convened by the ICRC to assist in the preparation of the two draft Additional Protocols, which now provide the basis for discussion at the Diplomatic Conference.

At the preparatory Conferences of Government Experts, Canada's representatives vigourously promoted the view that, building upon

common Article 3 of the four Geneva Conventions of 1949, a basic minimum standard of humanitarian treatment should be elaborated which would apply in all armed conflict situations even if they are considered to be "non-international" in character. To this end, Canadian experts prepared a draft protocol to apply in "non-international" armed conflicts and presented this draft for consideration by the Conferences of Government Experts; this draft has provided the inspiration and basis for the second draft Additional Protocol.

Although some government experts (and their governments) believed that the victims of international and non-international armed conflicts should be equally protected by a single additional protocol, experts from Canada and a good number of other countries have consistently been of the opinion that the nature of and conditions under which non-international and hence internal, armed conflicts are normally conducted are such as to necessitate separate treatment.

The second Additional Protocol, as it was worded in the ICRC draft, would apply mainly to situations where non-international hostilities of a collective nature have occurred between "organized armed forces under the command of a responsible authority". Such a Protocol would consequently apply only in conflicts of relatively high intensity where both parties, including the rebels, have at least quasi-governmental authority, control of some territory and the capacity to abide by the protocol, whereas the Canadian view was that many contemporary armed conflicts, in which loss of life and injury among the civilian population is high, occur at a lower level of intensity and should, if possible, be brought within the scope of the protocol.

Many experts, particularly those from the developing countries, also believed that "wars of national liberation" should be regarded as being international in nature and thus be excluded from the scope of the second protocol and placed in the first protocol on international armed conflicts.

It was generally agreed, however, that if two Additional Protocols were to be adopted, the form and language of both should be similar, but the provisions of the second Protocol should probably be less complex than those of the first.

The first session of the Conference was disappointing in that an inordinate amount of time was devoted to political and procedural questions, with the result that only sixteen articles of the draft Protocols were discussed at all and seven adopted at Committee level. One area of concern to the Canadian and other Western Delegations at that session was the successful effort by the majority of non-aligned states to obtain approval of a revised key article in Protocol I, which had the effect of defining all wars of self-determination against colonial domination, alien occupation and racist regimes, regardless of their level of intensity, as international armed conflicts for the purposes of the Geneva Conventions, thus excluding them from the scope of the second draft Protocol and placing them under the first draft Protocol reserved to international armed conflicts. However, following several meetings held during the inter-sessional period, Western representatives concluded that this internationalization of self-determination had to be accommodated and agreed that the remainder of Protocol I should therefore be drafted taking into account this new development.

In marked contrast with the first session, the second session which concluded on April 18, 1975 was conducted throughout in a business-like atmosphere and achieved remarkable results on substantive matters. Over 70 articles of both draft Protocols I and II were considered and adopted, usually by consensus. The second session was particularly successful from the point of view of Canada's fundamental objective of a progressive extension of the standards of International Humanitarian Law into situations of non-international armed conflicts covered by draft Protocol II. This is evidenced by the adoption of 4 out of 6 essential parts of draft Protocol II.

Participants at the second session dealt also with the more general issue of whether draft Protocol II should contain only limited basic humanitarian provisions or contain more complex provisions which would have the effect of greatly narrowing the scope for its application.

The Canadian view has always been that Protocol II should be as wide as possible in scope and to that effect contain a limited number of basic provisions which could be applied to most non-international armed conflicts. The adoption by consensus at the last session of Article I of draft Protocol II concerning the Material Field of Application of the Protocol, contains a provision to the effect that the "rebel party" must exercise such control over part of the territory as to enable it to implement the present Protocol. This provision is probably unique in international law since it entails that the obligations contained in the Protocol will govern the threshold of its application. It also means, however, that if the provisions outlined are too complex, they would be inapplicable to a large number of non-international conflicts. It is thus particularly important for the Canadian Delegation to gather support at the Conference for its objective of a low-threshold, wider-scope Protocol II.

The Diplomatic conference should complete its consideration of the two draft Protocols as its third session in the spring of 1976 and despite doubts expressed earlier by the developing countries in particular about the whole concept of additional Protocol II, it now seems fairly certain that both Protocols will eventually be adopted by the required majority.

Conventional Weapons and the Civilian Population

At the first ICRC Conference of Government Experts in 1971, a number of countries led by Sweden proposed that the use of certain types of conventional weapons which are particularly dangerous to civilians should be outlawed in the Additional Protocols to the Geneva Conventions of 1949. During consideration of an item entitled "Human Rights in Armed Conflicts" in the Third Committee at the 1971 session of the General Assembly, Sweden tabled a resolution which, inter alia, requested the Secretary-General to prepare a report on napalm and other incendiary weapons, and invited the Second ICRC Conference of Government Experts "to devote special attention to ... legal restraints and restrictions on certain methods of warfare and weapons that have proved particularly perilous to civilians ...". The Secretary General's report on napalm and other incendiary weapons was given preliminary consideration at the 1972 session of the General Assembly in the First (Disarmament) Committee.

At the second ICRC Conference on Government Experts in 1972, Sweden and 18 other countries proposed that "the ICRC should arrange a special meeting to consult with legal, military, and medical experts on the question of express prohibitions or limitations of use of such conventional weapons as may cause unnecessary suffering or be indiscriminate in their effect. The Canadian intervention on this question was influential in persuading the ICRC that its report should confine itself to creating a solid factual basis for subsequent discussion of this subject in the most appropriate forum.

In February 1973, the ICRC convened a meeting in Geneva of medical, military, and legal experts to assist the ICRC in preparing a documentary report which was published under the title "Weapons that may Cause Unnecessary Suffering or have Indiscriminate Effects". In addition, at the 1973 session of the General Assembly, the U.N. Secretariat presented a two-volume survey on "Existing rules of international law concerning the prohibition or restriction of certain weapons".

At the XXIInd International Red Cross Conference held in Tehran in November 1973 a resolution was passed urging the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts to begin considering the question of the prohibition or restriction of use of conventional weapons which may cause unnecessary suffering or have indiscriminate effects (CUSHIE weapons), without prejudice to its work on the two draft Additional Protocols. In addition, the resolution invited the ICRC to call, in 1974, a conference of government experts to study this whole question in depth. This resolution represented a compromise between the view that provisions banning specific weapons should be included in the draft Additional Protocols and the view that this question should not be discussed at all. The Canadian Delegation at the Conference was pleased with the resolution since discussing prohibitions or restrictions of specific weapons in the Protocols would have jeopardized the success of any Diplomatic Conference called to consider the Protocols, and might prejudice the universality of acceptance of any Protocols adopted by such Diplomatic Conference.

At the opening session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts held in Geneva in 1974, a mandate and work programme, based largely upon a Canadian draft, for an ICRC meeting of government experts was approved. The meeting took place in Lucerne, Switzerland from September 24 to October 18, 1974, with a mandate to discuss the possible limitation or prohibition of the use of CUSHIE weapons.

The agenda for the conference included the discussion and analysis of proposed legal criteria such as unnecessary suffering, indiscriminateness, perfidy and the dictates of public conscience; it also listed for the purposes of discussion CUSHIE weapons in the following categories; incendiary weapons, small-calibre projectiles, blast and fragemntation weapons, delayed-action and treacherous weapons, and potential new weapons.

The conference held in Lucerne contributed in no small measure to the knowledge and understanding of the subject. It was decided that

the report of its proceedings would be presented to the second session of the Diplomatic Conference on Humanitarian Law where it would constitute an important item on the agenda of the ad hoc Committee on conventional weapons. It was also stressed, however, that since newly-presented facts had to be digested and further study and research was needed, it was unlikely that the ad hoc Committee would be able to adopt at its next session new treaty rules concerning the prohibition or restriction of the use of any conventional weapons. The Lucerne Conference finally recommended to the ad hoc Committee that a second Conference of Government Experts be convened in 1975, which would both receive and consider new information relevant to the subject matter contributed by the experts and would focus on such weapons as have been - or may become - the subject of proposed bans or restrictions of use, and to study the possibility, contents and form of such proposed bans or restrictions.

The ad hoc Committee on Conventional Weapons of the Diplomatic Conference on Humanitarian Law did consider the report of the Lucerne Conference of Government Experts and numerous proposals and working papers were submitted to the Committee by various delegations. After substantial discussions on the different categories of conventional weapons, there was broad agreement in the Committee on the need and modalities of another conference and it was decided to convene a second conference of Government Experts on Conventional Weapons in Lugano, Switzerland, from 20 January to 26 February 1976. Results of this second conference would be communicated to the third session of the Diplomatic Conference on Humanitarian Law which is scheduled to open in Geneva on April 21, 1976.

OUTER SPACE LAW

Since the early 1960's, when the development of outer space law first began to occupy a position of importance on the agenda of the United Nations, Canada has participated actively in the deliberations of the 37 member Committee on the Peaceful Uses of Outer Space, and, inter alia in the more specific work of the Legal Sub-Committee. This sub-committee meets for approximately four weeks each year, and continues to make an exceptionally harmonious and productive contribution to international law and the international legislative process. Legal Operations Division of External Affairs - the U.N. and Legal Planning Section - coordinates Canada's participation in the work of the sub-committee.

The record of this sub-committee, and based on its work, that of the Committee on the Peaceful Uses of Outer Space, is impressive. Following upon the "Outer Space Treaty" of 1967, three further Conventions have been adopted: The Agreement of the Rescue of Astronauts (1968), the Liability Convention (1972), and the Registration Convention (1974). Since 1975, Canada has been a party to all of these instruments.*(1)

The work of the sub-committee has now turned to three "high priority" items: a draft Moon Treaty, the elaboration of principles to govern direct television broadcast by means of satellites, and the legal implications of remote sensing; a further residual item, the definition of outer space, continues to be somewhat left aside, partly because of lack of time, and partly because there is insufficient agreement on a realistic basis for such a definition.

Of the three high priority items, least progress has been made on the Draft Moon Treaty. This project, initially proposed by the U.S.S.R. in 1971, has run into a stalemate over lack of agreement (for

the most part between the developing countries and the space powers) on a suitable definition of the natural resources of the moon. States continue to be unable to reconcile the needs of research and currently unforeseeable prospects of future exploitation of the moon's resources with the widely accepted concept that the moon's resources should be treated as "the common heritage of mankind". Barring some unforeseen development (e.g. a definition in relation to the Law of the Sea of the concept of "common heritage of mankind" in such a way that it may be applicable to space, and to the resources of the moon and other celestial bodies), it is unlikely this proposed draft treaty will proceed beyond the present stage much before exploitation of the moon becomes a more practical reality.

In contrast, the Legal Sub-Committee appears well underway to agreement on a set of Principles to Govern the Use of Satellites for Direct Television Broadcasting (DBS), largely on the basis of concepts contained in the series of proposals made jointly by Canada and Sweden. The Canada/Swedish principles tabled in each of the five sessions of the Outer Space Committee's Working Group on Direct Broadcast Satellites, and again at the Fourteenth Session of the Legal Sub-Committee in 1975, are designed to establish a realistic and responsible balance between the protection of a state's sovereign rights, and the maximizing of important benefits which DBS could bring to all countries. Basing themselves on the Canada/Swedish principles calling for a definition which would minimize "spillover", and for the recognition of sovereign rights of states through participation in DBS systems, the Legal Sub-Committee has managed to draft texts for virtually a full set of principles. Disagreement still remains, and is reflected in alternative wordings and "square brackets" contained in some principles. Nonetheless there appears to be a broadening consensus that a final text might be reached by 1976, provided current trends toward agreement on the issues of "prior consent", the right of participation by receiving states, and the definition of technically unavoidable spillover can be maintained.

The Fourteenth Session of the Legal Sub-Committee had been specifically directed by the General Assembly to consider for the first time, and as a matter of "high priority" the legal implications of remote sensing of the earth from space. Widely divergent views exist among member countries of the Sub-Committee on three major issues, two procedural, the other substantial: (1) There is basic disagreement as to whether the time is now ripe to commence drafting principles, guidelines or treaty provisions to govern remote sensing, or whether more consideration must be given to the technical, political and social realities and possibilities of this new technology. (2) There is reluctance on the part of those countries who support the Latin American and Franco-Soviet draft proposals for a treaty and principles, to consider further the views of states which have not tabled formal proposals, and to take sufficiently into account the work being done in other U.N. Committees on technical aspects of remote sensing. While these countries fear that such further consideration would only serve to delay unnecessarily the drafting of instruments, other states believe that some problems might better be tackled through "organizational" means rather than through establishing a potentially restrictive legal regime. (3) There is substantive disagreement between the United States and most West European countries on the one hand, and the developing countries and the Soviet Union on the other, as to whether or not there is a need for sensed states to protect themselves from exploitation of their natural resources by sensing states - and third parties in possession of data concerning the sensed state. If there is a need, states disagree as to whether this protection should best be afforded through the assertion by "sensed" states of a right to either (as in the case of the Latin American proposal) (a) Withhold their consent to being sensed, or (b) Withhold their consent to dissemination of data concerning the sensed states and thereby restrict a free and open dissemination of data and flow of information. The Latin American view is that the states must protect themselves from the exploitation of their natural resources by sensing states through insisting on such a restrictive regime; they argue that

sovereignty over natural resources implies or includes sovereignty over information pertaining to those natural resources, and that unfettered sensing of their national territory or dissemination of data concerning that territory without their consent, would be an infringement of their soverneignty.

The United States on the other hand,insisting that activities in Outer Space are beyond the purview of national sovereignty and are governed by the Outer Space Treaty of 1967, continues to stress the belief that a policy of free and open dissemination of data is the only policy which would take into account the technical possibilities and realities of remote sensing, and which at the same time, by making data freely available to everyone (including all sensed states) removes any fear of discrimination or unfair exploitation by means of remote sensing.

Clearly these areas of disagreement are fundamental. Nontheless, despite the basic nature of the disagreement among members of the Committee on the Peaceful Uses of Outer Space, it is clear that with the tabling of draft "guidelines" by the United States, the Legal Sub-Committee has embarked on the drafting of a legal or quasi-legal instrument to govern remote sensing.

Canada is currently re-examining its policy on remote sensing in light of 1) technical realities and possibilities, 2) Canadian interests as a resource-rich nation, at the same time able to benefit greatly from remote sensing, 3) Canadian perceptions of a viable international regime - be it organizational, legal, or a combination of the two - which would serve and protect international and national interests, particularly those interests of resource-rich developing countries and regions. Canada will continue to seek realistic principles which will be based on a thorough understanding of technological realities, and which will appropriately complement legal guidelines with regional and international cooperation to maximize the benefits of remote sensing, while allaying the fears of unfair exploitation or infringement of the sovereignty of sensed states.

*(1) On becoming a party to the Liability Convention on February 20, 1975, Canada made the following declaration. "Having regard to the terms of operative paragraph 3 of Resolution 2777 (XXVI) adopted by the General Assembly ..., the Government of Canada hereby declares that it will recognize as binding, in relation to any other state accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Canada may become a party under the terms of the Convention".

U.N. Charter of Economic Rights and Duties of States

The United Nations Charter on the Economic Rights and Duties of States, also known as the "Echeverria Charter" because of the role of the President of Mexico in proposing its elaboration, was formally adopted by Resolution of the General Assembly at its XXIXth (1974) Session.

The Charter as adopted reflects a great many of the principles found in the Declaration on the Establishment of a New Economic Order and related Programme of Action adopted at the Sixth Special Session of the U.N. General Assembly in the spring of 1974. Unlike the Declaration and Programme of Action, however, which were adopted without vote, the Charter was adopted by a vote of 120 in favour and six opposed (the U.S.A. and five members of the EEC) with ten abstentions, including Canada. Efforts at the Fourth Session of the UNCTAD Working Group on the Charter in Mexico and subsequently during the General Assembly itself to negotiate a text acceptable to all member states were unsuccessful.

The large majority of the provisions of the Charter obtained unanimous support in the General Assembly. Those issues which prevented agreement on the text as a whole related to (1) the treatment of foreign investment, (2) international trade policy and (3) development assistance policy. Of these three areas, perhaps the most controversial and difficul was that related to foreign investment, including the control of foreign-based multinational corporations and permanent sovereignty over natural resources. This complex of issues is of particular interest to Canadians, because of its subject matter, and to international lawyers, because of the nature of the controversy to which it gave rise.

The Declaration of the Sixth Special Session had asserted the "full permanent sovereignty of every state over its natural resources and all economic activites". Article 2, paragraph 1 of the Charter extended the application of the "permanent sovereignty" concept to "all its wealth". The absence of any provision limiting the territorial application of this concept left open the interpretation that a state which transferred a

portion of its wealth abroad, for example in the form of foreign investment, nevertheless retained "permanent sovereignty" over that wealth. This would, of course, conflict with the "permanent sovereignty" of the host state over its "economic activities" and the paragraph was therefore internally inconsistent. Efforts to introduce into the text some limitation of the concept of permanent sovereignty, originally introduced in the particular context of control over foreign-owned natural resources, were not successful.

The right of every state to regulate foreign investment within its national jurisdiction "in accordance with its laws and regulations" is asserted in paragraph 2(a), which goes on to say that "No State shall be compelled to grant preferential treatment to foreign investment". While Canada did not advocate preferential treatment for foreign investment, it did take the view that, when a host state takes measures against foreign investment, it should not discriminate against foreign investment from one country in relation to foreign investment from other sources, and the measures which it applies to all foreign investment should be in accordance with its international obligations.

The right of a state to regulate and supervise the activities of transnational corporations within its jurisdiction, set out in paragraph 2(b), was supported by Canada.

The nationalization/compensation issue, dealt with in paragraph 2(c), proved incapable of resolution. The paragraph asserts the right of nationalization of foreign property "in which case appropriate compensation should be paid by the (nationalizing) State ..., taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals ..." unless the States concerned agree otherwise.

This provision raised, more clearly than any other, the fundamental issue of the relationship of international law to the treatment of foreign investment. The Canadian position was not only that the right of nationalization was conditional upon payment of compensation, but that the whole of Article 2 was defective because of the absence of any reference in the Article to the applicability of international law.

A group of thirteen developed states (including Canada) proposed the addition to Article 2 of a third paragraph in the following terms: "States taking measures in the exercise of the fore going rights shall fulfil in good faith their international obligations". The phrase "international obligations" was deliberately chosen to avoid pre-judging whether such obligations arise from treaties only or from customary international law as well. It thus permitted states which wished to do so to maintain that their only obligations to other states in respect of foreign investment were those they had expressly accepted by treaty. Despite this"flexibility", the paragraph was defeated by a vote of 71 opposed, 20 in favour, with 18 abstentions.

The implications of this vote for the evolution (one could hardly call it "progressive development") of international law are disturbing. In his statement in the General Assembly, the Canadian representative said:

> "The third paragraph proposed for Article 2 ... prejudged neither the content of international law relating to foreign investment, nor the sources of such law. It merely sought to establish the principle that, in this very important area of international relations, the rule of law is to apply among states ...
> ... The reason my Delegation attaches such importance to this point ... is that if we are to achieve and maintain the equitable distribution of the world's wealth which this Charter is intended to promote, a significant flow of private capital from developed to developing countries in the form of investment will be required. This movement of capital will take place only in conditions which provide at least a certain degree of security, which cannot possibly exist if the rule of law is rejected."

Another legal issue which arose in the Working Group on the Charter had a less unsatisfactory outcome. A group of developing countries proposed the inclusion in the Charter of a provision that "Every State has the right and the duty to take all effective measures, inter alia, through the full exercise of permanent sovereignty over all its natural resources, to put an end to all forms of foreign occupation, apartheid, racial discrimination, colonial, neo-colonial and alien domination and exploitation". The highly subjective judgment required to determine the existence of a situation of a kind to which the provision referred meant that the text proposed would have amounted to a legal justification for economic coercion (in the form, for example, of selective embargoes on natural resources) in pursuit of political objectives. Canada was among many states which vigorously opposed any provision of this kind and none was included in the Charter as adopted.

While the Economic Charter cannot, as had earlier been hoped, take a place alongside the Friendly Relations Declaration and the Human Rights Charter as expressing a consensus of the international community, it is nevertheless an important milestone in the rapidly evolving framework of economic relations between developed and developing countries. The position which the Charter takes on the relationship of international law to foreign investment is therefore unfortunate. One may hope, however, that the realities of the need to attract foreign investment capital as part of the economic development process will give rise to state practice, with respect to future investment at least, which will reassert the necessary role of international law in this area. Whether such state practice will re-establish the classical rule of "prompt", adequate and effective compensation as determined by international disputes settlement machinery"in respect of nationalization is perhaps somewhat more problematical.

1975 VIENNA CONVENTION ON THE REPRESENTATION OF STATES IN THEIR RELATIONS WITH INTERNATIONAL ORGANIZATIONS.

On March 13, 1975, the Vienna Convention on the Representation of States in Their Relations with International Organizations was adopted by a United Nations Plenipotentiary Conference in Vienna. This Convention was designed as the last of a set of international conventions in the field of diplomatic privileges and immunities. Its purpose was to establish the privileges and immunities to be accorded to permanent missions accredited to international organizations and the privileges and immunities of delegations to international conferences. The other related conventions are, of course, the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations and the 1969 New York Convention on Special Missions.

Unfortunately, during the Conference divisions emerged between the traditional host states which, generally speaking, wished the Convention to provide satisfactory safeguards against abuse for host states, and other states that wished to have a maximum of privileges and immunities. The latter group used its voting strength to eliminate or weaken those provisions which afforded to host states safeguards similar to those enjoyed by receiving states in bilateral diplomacy. The result is a Convention which is largely unsatisfactory from the host state point of view, and Canada was not able to vote in favour of it in Vienna.

EUROPEAN COMMUNITIES

On July 30, 1975 a bill entitled "An Act to Amend the Privileges and Immunities (International Organizations) Act" received Royal Assent. The purpose of this amendment is to ensure that the Mission which is being opened in Canada in the autumn of 1975 by the European Communities, and the representatives of the European Communities, have legal capacities as well as privileges and immunities analogous to those accorded foreign diplomatic missions and representatives by international law. It is expected that this Act will be proclaimed shortly and that an appropriate Order-in-Council will be issued thereafter.

It was deemed essential to accord such rights to the European Communities to enable all their personnel in Ottawa to function effectively as representatives accredited to Canada. The Canadian Mission to the European Communities in Brussels is granted diplomatic privileges and immunities. Unlike foreign diplomats, however, who are covered by the Vienna Convention on Diplomatic Relations, and the United Nations which is covered by the Convention on Privileges and Immunities of the United Nations, there was no international convention or law in Canada which would cover the Communities' representatives in Canada in a similar manner. It was therefore necessary to introduce the amendment.

The European Communities possess certain sovereign capacities and they have a unique juridical status which is distinguishable from that of the States which established them. They are also distinguishable from intergovernmental organizations such as the United Nations. It is considered that it would be legally more accurate to equate the Communities' Mission in Canada to that of a diplomatic mission, in terms of privileges and immunities, than to the United Nations or similar intergovernmental organizations.

PRIVATE INTERNATIONAL LAW

The work of the Private International Law Section, as its name implies, involves dealing with matters of conflict between the domestic law of Canada, both federal and provincial, and the domestic law of foreign states. The volume of work of the Section has increased substantially during the past year. This has been so particularly in arranging for the service of legal documents originating in Canada on persons residing abroad and vice versa. Canada has civil proceedings conventions with 19 states for this purpose. However, even in the absence of a convention, the Section has often been successful in arranging for the service of documents abroad on behalf of the legal profession in Canada. In addition, the number of Commissions Rogatory for the taking of testimony in both civil and criminal matters abroad has increased. The Section assists both provincial governments and practising lawyers in this field. The Section also liaises between provincial governments and foreign governments on such matters as reciprocal enforcement of maintenance orders and foreign judgments. The demand for the authentication of signatures on legal documents required for use abroad has increased particularly with respect to the People's Republic of China, where Canadian companies are becoming commercially involved. Finally, requests for extradition and rendition of fugitive offenders to and from Canada have increased greatly, specifically between Canada and the United States of America in relation to drug offences.

In response to a growing number of requests from private groups and individuals concerned with inter-provincial and international adoption, and after considerable provincial prodding, the establishment of a National Adoption Desk and Central Registry was approved by the Conference of Welfare Ministers in Ottawa in February, 1975 and was announced by the Hon. Marc Lalonde, Minister of National Health and Welfare, at that time. The aim of the Desk is to standardize and harmonize both international and inter-provincial adoption policies and procedures. A member of the Section serves on the Committee whose role is (a) to formulate a Canadian policy and position on international adoption generally, and (b) to develop procedural standards and guidelines in connection with the Desk's operations. The nature and degree of involvement of our missions and consular officers abroad in the adoption process has been carefully outlined

in accordance with international practice and accepted functions of diplomatic and consular posts abroad. The formal announcement of the Desk's inter-provincial operation took place on August 15, 1975 and it is hoped that the international side of the Desk will be in operation by November 1, 1975. It is expected that our member will continue to serve in an advisory capacity to the Desk for the foreseeable future.

In January, 1975, the Section participated in the Inter-American Specialized Conference on Private International Law, convoked by the Organization of American States (O.A.S.) at Panama. Because Canada only has Permanent Observer status at the O.A.S., our representative participated in the Conference in that capacity. The contribution of our Observer was a proposal that a federal state clause be included in the six Conventions which were considered at the Conference. Although Conventions approved by the Conference were open for signature by any state, O.A.S. member or not, exclusion of the clause would make it unlikely Canada could ever become a party to them. Further, if exclusion of the clause were accepted as a precedent the result would be to virtually exclude Canada from participating in O.A.S. activities, setting back progress made to date in the development of Canada's relations with Latin-American states and with Inter-American institutions. Fortunately the Canadian proposal was accepted with the result that all six Conventions approved contained an acceptable form of Federal State Clause. These Conventions dealt with (a) Letters Rogatory; (b) Conflict of Laws concerning Bills of Exchange, Promissory Notes and Invoices; (c) Legal Regime of Powers of Attorney to be used Abroad; (d) Taking of Evidence Abroad; (e) International Commercial Arbitration; (f) Conflict of Laws concerning Cheques.

At present Canada has e tradition treaties with some 41 countries. Most of these treaties predate 1925 and the majority were concluded by Britain on behalf of Canada in the latter part of the 19th century. For some time now consideration has been given to up-dating these treaties to bring them more into line with current requirements and also to concluding extradition treaties with other countries. In February 1975 meetings were held with the West German authorities and a draft extradition treaty was initialled. It is anticipated that this treaty, as well as one negotiated

with Sweden in May, 1975, may be signed in the near future. The 1971 Canada-USA Extradition Treaty, as amended, will be tabled in the House of Commons and Senate in the near future and it is anticipated that ratification will follow shortly thereafter. Plans are also in progress to conduct extradition treaty negotiations with several other countries.

Canada Treaty Series

As reflected by the Canada Treaty Register maintained by the Treaty Section of Legal Advisory Division, action was taken during the past twelve months (July 1, 1974 - June 30, 1975) in connection with 73 agreements, 34 multilaterals and 39 bilaterals. This represents an increase of 40% in the number of treaties signed, ratified, accepted, etc.over last year.

This Section is also responsible for providing answers to a great number of written or oral questions from other divisions, other departments of Government, foreign governments and the general public concerning treaties to which Canada may or may not be a party.

As a result of sustained effort toward publication of the Canada Treaty Series, the backlog has been liquidated: within the next few weeks the remaining numbers in the 1974 series will be issued and preparatory work on the publication of the 1975 series will be well under way. It is therefore anticipated that the Canada Treaty Series will henceforth be issued on a regular basis.

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