

# INTERNATIONAL LAW AND NATURAL RESOURCES

Lorne S. Clark\*

## I. INTRODUCTION

We Canadians consider that there is no more significant aspect of our national interest than control over, and development of, our natural resources. This is partly because Canada has a greater percentage of its resources owned by foreign corporations than any other industrialized nation in the world.<sup>1</sup> It is therefore not surprising that we share at least some of the views enunciated by the majority of developing nations in the international community—most of which have been granted their independence in the post-World War II period—on important matters such as regulation of foreign investment and the exercise of jurisdiction over the exploration and exploitation of natural resources.

In company with these emerging countries, Canada does not yet have the domestic financial means to exploit our resources without the importation of investment capital from abroad. Despite our reliance on outside investment, Canada, unlike the developing nations, has one of the highest standards of living in the world, a high level of education, and is clearly an industrialized society with increasing proportions of secondary and tertiary economic activity.

Being both developed and developing, Canada holds a unique position. We tend to view international legal initiatives in the field of natural resources with a perspective different from many states, which have more of a vested interest in the arguments put forward by either the capital-exporting or the capital-importing nations.

## II. DEVELOPMENTS BY THE UNITED NATIONS

### A. *Development of the Principle of "Permanent Sovereignty Over Natural Resources"*

The central forum for discussion of this subject by members of the world community has been the United Nations. Initially, the dialogue at the United Nations was concerned with the question of "permanent sovereignty over natural resources." This issue was first

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\* B.A. McGill University; LL.B. University of London; Counsellor, Canadian Embassy, Washington, D.C.

1. GOVERNMENT OF CANADA, FOREIGN DIRECT INVESTMENT IN CANADA 5 (1972) [hereinafter cited as GRAY REPORT].

raised during the debates on human rights in 1952.<sup>2</sup> At that time, the world organization was concerned with the formulation of principles of self-determination in connection with the human rights Covenants then being elaborated. In this context, permanent sovereignty over natural wealth emerged as an attribute of the principle of economic self-determination.

For reasons that can be readily appreciated, this concept quickly became enmeshed with the subject of colonialism, the headline item of the day (and an inevitable development in the early 1950's). The U.N. discussions at that time led to polarization between the developing, capital-importing states, with support from the Eastern European bloc, and the developed, capital-exporting nations. This polarization is a good example of the linkage between international legal aspects of natural resource ownership and development, on the one hand, and relevant international political implications, on the other. Both must be taken into account when considering the matter from other than a strictly national point of view.

The Sixth Session of the United Nations General Assembly (UNGA) eventually adopted Resolution 523<sup>3</sup> of January 12, 1952, concerning economic development in general and commercial agreements in particular. Of special interest is one of the clauses in the preamble:

*Considering* that the under-developed countries have the right to determine freely the use of their natural resources and that they must utilize such resources in order to be in a better position to further the realization of their plans of economic development . . . .<sup>4</sup>

and an operative clause which

*[r]ecommends* that Members of the United Nations, within the framework of their general economic policy, should

. . . .

(b) Consider the possibility of facilitating through commercial agreements:

(ii) The development of natural resources . . . .

provided that such commercial agreements shall not contain economic or political conditions violating the sovereign rights of the

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2. See, e.g., 6 U.N. GAOR 501-20 (1952).

3. Integrated Economic Development and Commercial Agreements, G.A. Res. 523, 6 U.N. GAOR Supp. 20, at 20, U.N. Doc. A/2119 (1952).

4. *Id.*

underdeveloped countries, including the right to determine their own plans for economic development.<sup>5</sup>

Following further debates, on December 21, 1952, the Seventh Session of the UNGA adopted the landmark Resolution 626 entitled Right to Exploit Freely Natural Wealth and Resources, which affirmed the right of Member States "freely to use and exploit their natural wealth and resources wherever deemed desirable by them for their own progress and economic development . . . ."<sup>6</sup>

The Ninth Session of the UNGA further refined the concept of permanent sovereignty in its Resolution 837 of December 14, 1954, which

*[r]equests* the Commission on Human Rights to complete its recommendations concerning international respect for the right of peoples and nations to self-determination, including recommendations concerning their permanent sovereignty over their natural wealth and resources, having due regard to the rights and duties of States under international law and to the importance of encouraging international co-operation in the economic development of underdeveloped countries . . . .<sup>7</sup>

The important debate on whether a nation's permanent sovereignty over its resources was to be qualified in any way by the rights and obligations of states under international law was taken up again at the Thirteenth Session of the UNGA. At that time, Resolution 1314 of December 12, 1958 was adopted, establishing a nine-member Commission to

conduct a full survey of the status of this basic constituent of the right to self-determination . . . [including] the status of the permanent sovereignty of peoples and nations over their natural wealth and resources . . . .<sup>8</sup>

The Commission met for the first time in May 1959. Its deliberations, the discussions in the Economic and Social Council, and debates in the UNGA, especially those at the Seventeenth Session in 1962, eventually led to the adoption on December 14, 1962 of the

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5. *Id.* ¶ 1.

6. G.A. Res. 626, ¶ 1, 7 U.N. GAOR Supp. 20, at 18, U.N. Doc. A/2361 (1952).

7. Recommendations Concerning International Respect for the Right of Peoples and Nations to Self-determination, G.A. Res. 837, ¶ 1, 9 U.N. GAOR Supp. 21, at 21, U.N. Doc. A/2890 (1954).

8. G.A. Res. 1314, ¶ 1, 13 U.N. GAOR Supp. 18, at 27, U.N. Doc. A/4090 (1958).

## Declaration on Permanent Sovereignty Over Natural Resources (Declaration).<sup>9</sup>

The Declaration positively reaffirms four basic principles of international law: (1) compensation must be paid in the event of a lawful taking of rights and property; (2) such compensation must be paid in accordance with international law, that is, it must meet international legal standards; (3) arbitration agreements between states and private parties have a binding effect;<sup>10</sup> and (4) investment agreements between states and private parties have a binding effect.<sup>11</sup>

It is useful to note the objective of the Declaration: it endeavors to determine the nature of the right of permanent sovereignty over natural resources, the manner in which that right should be exercised, and what measures should be taken into account in accordance with international law.

UNGA resolutions are not, in themselves, binding under international law.<sup>12</sup> However, the Declaration seeks to enshrine the rights of peoples and nations to permanent sovereignty over their natural wealth and resources. It is the considered view of many international lawyers that the Declaration, far from creating new law, merely reaffirms existing international law.<sup>13</sup>

After more than a decade of discussion and debate, it was clear that, with the adoption of the 1962 Declaration, the world community recognized and accepted as a principle of international law

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9. G.A. Res. 1803, 17 U.N. GAOR Supp. 17, at 15, U.N. Doc. A/5217 (1962).

10. *Id.* ¶ 4. Paragraph 4 of the Resolution also states the prevailing view concerning nationalization as of 1962, and merits quoting in full:

Nationalization, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest which are recognized as overriding purely individual or private interests, both domestic and foreign. In such cases the owner shall be paid appropriate compensation, in accordance with the rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law. In any case where the question of compensation gives rise to a controversy, the national jurisdiction of the State taking such measures shall be exhausted. However, upon agreement by sovereign States and other parties concerned, settlement of the dispute should be made through arbitration or international adjudication.

11. *Id.* ¶ 8.

12. J. BRIERLY, *THE LAW OF NATIONS* 110 (6th ed. H. Waldock 1963).

13. See, e.g., Gess, *Permanent Sovereignty Over Natural Resources*, 13 INT'L & COMP. L.Q. 398, 409 (1964); Schwebel, *The Story of the U.N.'s Declaration on Permanent Sovereignty Over Natural Resources*, 49 A.B.A.J. 463, 469 (1963); Vicuña, *Some International Law Problems Posed by the Nationalization of the Copper Industry by Chile*, 67 AM. J. INT'L L. 711, 712 (1973).

that natural resources are the property of the state in the territory in which they are found, or come under the jurisdiction of the state upon which certain rights have been bestowed as a result of international agreement.<sup>14</sup>

*B. "Economic Rights and Duties of States" and "A New International Economic Order"*

Exactly one decade after the adoption of the Declaration on Permanent Sovereignty, U.N. activity in the area of natural resource control resumed with even greater intensity. The United Nations Conference on Trade and Development (UNCTAD) adopted Resolution 45(III)<sup>15</sup> on May 18, 1972, which called for agreement on generally accepted norms to govern international economic relations in a systematic manner. The Resolution underscored the need for protection of the rights of all countries, especially the developing nations, and established a Working Group to begin drafting the Charter of Economic Rights and Duties of States (Charter).<sup>16</sup> On December 19, 1972, the UNGA agreed on the composition of the Working Group of governmental experts.<sup>17</sup> The following year, the Working Group was urged by the Assembly to complete, as the first step in the process of codification and development, a final draft Charter to be considered and approved at the Twenty-ninth Session of the UNGA in 1974.<sup>18</sup>

In May 1974, the Sixth Special Session of the UNGA adopted two resolutions, a Declaration and a Programme of Action on the Establishment of a New International Economic Order.<sup>19</sup> These resolutions emphasized that the proposed Charter was to constitute an effective instrument for moving towards the organization of a new system of international economic relations based on equity, sovereign equality, and interdependence of the interests of developed and developing countries.

I will not address myself to the lengthy, complex, and at times

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14. See, e.g., Convention on the Continental Shelf, done April 29, 1958, art. 2, [1964] 1 U.S.T. 471, T.I.A.S. No. 5578, 499 U.N.T.S. 311 (effective June 10, 1964).

15. UNCTAD Res. 45(III), 1 Proceedings of the United Nations Conference on Trade and Development, 3 UNCTAD, Annex 1A, at 58, U.N. Doc. TD/180 (1972).

16. *Id.* ¶ 1.

17. G.A. Res. 3037, 27 U.N. GAOR Supp. 30, at 53, U.N. Doc. A/8730 (1972). This Resolution enlarged the Working Group from 31 to 40 members.

18. G.A. Res. 3082, 28 U.N. GAOR Supp. 30, at 40, U.N. Doc. A/9030 (1973).

19. G.A. Res. 3201, 3202, 6 Special Sess. U.N. GAOR Supp. 1, at 3, 5, U.N. Doc. A/9559 (1974).

convoluted negotiations, discussions, and debates which finally resulted in Resolution 3281 of December 12, 1974, which adopted the Charter of Economic Rights and Duties of States.<sup>20</sup> These have been dealt with in detail by a number of eminent international lawyers in recent publications.<sup>21</sup> Suffice it to say that during the elaboration of the Charter the international political implications of the subject in many ways overshadowed the relevant international legal aspects, much as the colonialism issue had adversely affected the initial consideration of permanent sovereignty over natural resources in the early 1950's. On the final roll call vote in the UNGA, the Charter Resolution passed by a vote of 120 to 6 (including the United States), with 10 abstentions (including Canada).<sup>22</sup> A degree of polarization on substance remains, although a great deal of effort was expended at the final meeting of the Working Group and in the UNGA in an attempt to negotiate a text acceptable to all Member States.

Much of the Charter language did receive unanimous support. The provisions which did not secure general approbation, however, deal with: (1) the treatment of foreign investment, (2) international trade policy, and (3) development assistance policy.<sup>23</sup> Of these three areas, the most controversial and the one of most interest to us in reviewing natural resource law is the treatment of foreign investment, including the control of foreign-based multinational corporations and permanent sovereignty over natural resources.

In examining some of the difficulties, it should be noted that the Declaration on the Establishment of a New International Order, which expanded upon the 1962 Permanent Sovereignty Declaration, had asserted the "[f]ull permanent sovereignty of every State over its natural resources and all economic activities."<sup>24</sup> Article 2, para-

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20. G.A. Res. 3281, 29 U.N. GAOR Supp. 31, at 50, U.N. Doc. A/9631 (1974).

21. See, e.g., Brower & Tepe, *The Charter of Economic Rights and Duties of States: A Reflection or Rejection of International Law?*, 9 INT'L LAW. 295 (1975); Lillich, *Economic Coercion and the International Economic Order*, 51 INT'L AFF. 358 (1975).

22. The six negative votes were cast by Denmark, West Germany, Luxembourg, United Kingdom, United States, and Belgium. The abstaining nations were Austria, Canada, France, Ireland, Israel, Italy, Japan, the Netherlands, Norway, and Spain. 29 U.N. GAOR 44-45, U.N. Doc. A/PV.2315 (1974).

23. G.A. Res. 3281, arts. 2, 4, 6, 8, 14, 22; 29 U.N. GAOR Supp. 31, at 50, U.N. Doc. A/9631 (1974). For the text of the final draft of the Resolution by the Second Committee, the proposed amendments, and the votes thereon, see U.N. Docs. A/C.2/L.1386, 1398-1415, 1419, reprinted in 29 U.N. GAOR, Annexes, Agenda Item No. 48, at 1-31, U.N. Doc. A/9946 (1974).

24. Declaration on the Establishment of a New International Economic Order, G.A. Res. 3201, ¶ 4(3), 6 Special Sess. U.N. GAOR Supp. 1, at 2, U.N. Doc. A/9559 (1974).

graph 1 of the Charter of Economic Rights and Duties of States purports to extend the application of the "permanent sovereignty" concept to "all [a state's] wealth, natural resources and economic activities."<sup>25</sup> The absence of any provision limiting the territorial application of this concept permits the interpretation that a state which transfers a portion of its wealth abroad, for example in the form of foreign investment, still retains "permanent sovereignty" over that wealth. This would conflict with the "permanent sovereignty" of the host state over its "economic activities." The Charter provision can thus be read as internally inconsistent. Efforts to introduce into the text some limitation of the concept of permanent sovereignty, originally put forward in the context of control over foreign-owned natural resources, were not successful.<sup>26</sup>

Article 2, paragraph 2(a) asserts the right of every state "[t]o regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations," and provides further that "[n]o State shall be compelled to grant preferential treatment to foreign investment."<sup>27</sup> While Canada did not advocate preferential treatment for foreign investment, we did take the view that

when a host State takes measures against foreign investment, it should not discriminate against Canadian foreign investment 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.<sup>28</sup>

The issues of nationalization and compensation dealt with in Article 2, paragraph 2(c)<sup>29</sup> proved to be incapable of a generally acceptable solution. Article 2 states:

2. Every State has the right:

. . . .

(c) To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers

25. G.A. Res. 3281, art. 2, ¶ 1, 29 U.N. GAOR Supp. 31, at 50, U.N. Doc. A/9631 (1974).

26. See note 32 *infra* and accompanying text.

27. G.A. Res. 3281, art. 2, ¶ 2(a), 29 U.N. GAOR Supp. 31, at 50, U.N. Doc. A/9631 (1974).

28. 29 U.N. GAOR 56, U.N. Doc. A/PV.2315 (1974). See also 29 U.N. GAOR, C.2, 1649th meeting 446, ¶ 44, U.N. Doc. A/C.2/SR.1649 (1974).

29. G.A. Res. 3281, art. 2, ¶ 2(c), 29 U.N. GAOR Supp. 31, at 50, U.N. Doc. A/9631 (1974).

pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.<sup>30</sup>

This position raises most clearly the fundamental issue of the relationship of international law to the treatment of foreign investment. The Canadian position was that not only the right of nationalization was conditioned upon payment of compensation, but that the whole of Article 2 was inherently defective because of the absence of any reference to the applicability of international law.<sup>31</sup> After the attempt by a group of 14 developed states, including Canada, to secure agreement on a substitute provision was voted down,<sup>32</sup> the Canadian representative in the General Assembly stated:

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.<sup>33</sup>

The Charter of Economic Rights and Duties of States cannot, as had been originally hoped, take its place alongside the Universal Declaration of Human Rights of 1948<sup>34</sup> and the Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance With the Charter of the United Nations of 1970<sup>35</sup> as expressing a consensus of the international community. However, it cannot be denied that the document

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30. *Id.*

31. 29 U.N. GAOR 57, U.N. Doc. A/PV.2315 (1974). See also 29 U.N. GAOR, C.2, 1649th meeting 446, ¶¶ 46-47, U.N. Doc. A/C.2/SR.1649 (1974).

32. For the text of the substitute Article 2, see U.N. Doc. A/C.2/L.1404, reprinted in 29 U.N. GAOR, Annexes, Agenda Item No. 48, at 6, U.N. Doc. A/9946 (1974). Article 2, paragraph 3 of the substitute was voted down by 71 against, 20 in favor, 18 abstaining; while Article 2, paragraphs 1, 2 were defeated by 87 against, 19 in favor, 11 abstaining. *Id.* at 10.

33. 29 U.N. GAOR 58, U.N. Doc. A/PV.2315 (1974).

34. G.A. Res. 217A, U.N. Doc. A/810, at 71 (1948).

35. G.A. Res. 2625, 25 U.N. GAOR Supp. 28, at 121, U.N. Doc. A/8028 (1970).

is nevertheless an important milestone in the rapidly evolving framework of economic relations between the developed and developing countries. The position asserted in the Charter concerning the relationship of international law to foreign investment is therefore most unfortunate.

However, it is still possible that the need to attract foreign investment capital as part of the economic development process will give rise to state practice, at least with respect to future investment, so as to reassert the fundamental role of international law in this area. Whether such state practice will reestablish the erstwhile classical concept of equitable and effective compensation, as determined by international dispute settlement machinery dealing with nationalization, is perhaps more problematical.

From my remarks you will have noted that, from a Canadian point of view, U.N. developments in the field of sovereignty over natural resources and foreign investment have been less than fully satisfactory. U.N. Declarations and Charters may be debated, elaborated, and voted on, but as long as there is no universal organization with binding legislative authority, and the nation-state remains the quintessential subject of the international legal order, municipal or national law, relevant treaties and other agreements, and customary international law will govern.

### *C. The Conference on International Economic Cooperation*

In looking ahead to future developments, there is a need to keep in view the North-South Dialogue, which is being conducted in Paris. The Conference on International Economic Cooperation (CIEC)<sup>36</sup> is a one-year attempt on the part of 27 industrialized and developing countries to explore approaches to the problems of energy and to refine further the "New International Economic Order" through energizing or stimulating action in such organizations as UNCTAD, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the International Bank for Reconstruction and Development (World Bank), and the Food and Agricultural Organization. This initiative is seen by participating states, including Canada, as a unique opportunity to address the various demands recently put forward by the developing countries

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36. The work of the CIEC is discussed at 15 INT'L LEGAL MAT'LS 388-94 (1976). The General Assembly has requested U.N. organizations to actively assist the participants in the CIEC. G.A. Res. 3515, 30 U.N. GAOR Supp. 34, at 70, U.N. Doc. A/10034 (1975).

for changes in the world's economic system.

The CIEC is not an international lawmaking forum, but is the embodiment of an exercise in considerable political will, and as such can be expected to influence future international law in several areas. Its limited but representative membership will tend to ensure that any consensus reached in the Conference will be broadly acceptable to the international community at large. This may also make it possible to replace the highly politicized and often sterile debates on international economic problems with a more pragmatic and systematic approach to these complex questions, which cannot be resolved by mere rhetoric.

Of particular relevance to the subject before us is the Commission on Raw Materials, one of four Commissions within the CIEC. This Commission has the responsibility of reviewing the progress made in other international forums. It has been entrusted with facilitating the establishment of reenforcement of arrangements which may seem advisable in the field of raw materials (including foodstuffs), which are of particular interest to developing countries.<sup>37</sup>

It should be emphasized that the four Commissions do not operate in isolation. The other three—on energy, development, and financial affairs—might well take up resource issues from such other perspectives as trade policy, technology assistance for development of resources, or the implications for the emerging international economic structure. International economic relations have not been static since the adoption of the Economic Charter in 1974 and the holding of the last two Special Sessions of the U.N. General Assembly.

### III. THE CANADIAN DOMESTIC RESPONSE

#### A. *The Foreign Investment Review Act*

In Canada, the Foreign Investment Review Act (FIRA)<sup>38</sup> and its attendant regulatory system are of critical relevance. The background to, and workings of, this new system were discussed by eminent experts at another panel here this morning. It might, however, be helpful to reiterate some pertinent details. The first phase of the FIRA was proclaimed in force on April 9, 1974; the second phase came into force on October 15, 1975. Foreign investment in Canada

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37. Memorandums for the Preparatory Meeting for the Conference of International Economic Cooperation, October 13, 1975, 15 INT'L LEGAL MAT'LS, 390-91 (1976).

38. Foreign Investment Review Act, Can. Stat. c. 46 (1973).

therefore is now operating in the new climate of regulation created by this important statute.

The key applicable principle is that foreign-controlled businesses in Canada should operate in ways that bring "significant benefit" to Canada.<sup>39</sup> To this end they are expected to pursue policies which foster their independence from the head office in their decision-making and enhance their innovative and other entrepreneurial capabilities, their efficiency, and their identification with Canada and the needs and aspirations of the Canadian people. It should be made clear that Canada is not in any way trying to discourage foreign enterprises, multinational or otherwise, from investing in our country. On the contrary, as has been emphasized, Canada continues to require capital importation to sustain our high level of industrialization and our standard of living. However, our central concern is that investment be of significant benefit to Canada.

By the end of 1973, cumulative direct foreign investment in Canada totaled \$32.8 billion.<sup>40</sup> Despite our much smaller population, this figure is 79 percent greater than the \$18.3 billion of cumulative direct foreign investment in the United States at the end of 1973.<sup>41</sup>

The FIRA requires the Canadian government to review proposed foreign investment in new businesses and anticipated expansion of existing foreign-controlled firms into unrelated areas. Of the initial 230 applications reviewed, only 12 were disallowed, while 17 were withdrawn.<sup>42</sup> The first Annual Report on the operation of FIRA highlights a number of benefits to Canada accruing from the new screening process: 7,000 new jobs, over \$500 million in new investment, increased exports, more purchases of Canadian goods and services, improved efficiency and technology, strengthened research and development, and a greater variety of goods and services produced in Canada.<sup>43</sup>

In looking at these beneficial effects of the operation of FIRA, it must be borne in mind that, on the resource side, three-quarters

39. *Id.* § 2.

40. Statistics Canada Daily, Sept. 30, 1975, at 2. Of this total, \$25.5 billion, or 78 percent, came from U.S. investors. U.S. DEP'T OF COMMERCE, BUREAU OF THE CENSUS, 1976 STATISTICAL ABSTRACT OF THE UNITED STATES 828, table 1396.

41. 1976 STATISTICAL ABSTRACT OF THE UNITED STATES, *supra* note 40, at 829, table 1398. Of this total, \$4.0 billion, or 22 percent, came from Canadian investors. *Id.*

42. [1974-75] FOREIGN INVESTMENT REV. AGENCY ANN. REP. 23 (1975).

43. *Id.* at 1.

of the Canadian oil and natural gas industry<sup>44</sup> and about two-thirds of the Canadian mining and smelting industry remain under nonresident control.<sup>45</sup> If these figures are to stay that high, the trade-offs in "significant benefits" to Canada will also have to be substantial.

### B. *Petro-Canada*

On January 1, 1976, our new national petroleum company, Petro-Canada, officially went into business.<sup>46</sup> Although oil interests in the United States are well represented by private petroleum companies (the "seven sisters" have been the subject of no little publicity since the 1973 oil embargo), more than a dozen nations have chosen to have their hydrocarbon interests managed by wholly or partially owned national corporations.<sup>47</sup> We are hopeful that Petro-Canada can provide similar benefits for us. Meanwhile, British Petroleum, Ltd., which is nearly half-owned by the British government, has about 15 percent of the market in Canada's two largest provinces, Ontario and Quebec. Should we not be able to compete with such companies on even terms in our own country?

## IV. CONCLUSION: CANADIAN VIEWS IN PERSPECTIVE

While we are examining national control over resources, economic rights and duties of states, and a new, emerging resource and economic nationalism in Canada, care must be taken to put the Canadian case into perspective. Our boisterous, self-congratulatory centennial celebrations in 1967 (with its highlight, Expo '67 in Montreal) marked not only a period of festivity but also a national reawakening. Over the previous 100 years we were a relatively open country—open to trade, to foreign ownership, and to investment. Investment, mainly from the United Kingdom in the early years, then primarily from the United States, was a central factor in our development as a nation.<sup>48</sup>

Confederation in 1867 found Canada with a tiny population on a vast land mass. In order to harness and exploit the abundant natural resources, a nationwide railroad and communications net-

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44. GRAY REPORT, *supra* note 1, at 19, 20.

45. *Id.*

46. Petro-Canada was created by the Petro-Canada Act, Can. Stat. c. 61 (1975).

47. The most notable of these are, of course, the 13 members of the Organization of Petroleum Exporting Countries (OPEC): Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, the United Arab Emirates, and Venezuela.

48. GRAY REPORT, *supra* note 1, at 13.

work was required. Yet, after more than a century of development the majority of Canada's resource industries are still foreign-owned.<sup>49</sup> A heightened awareness of the extent of nonresident economic domination has been coupled with a growing appreciation on the part of Canadians that Canada is by no means a limitless storehouse of natural wealth awaiting only the drill, oil rig, or mine shaft.

At the same time, there is developing an increasing consciousness about the land itself, and of the responsibility to future generations for the stewardship of its resources and the environment. Most Canadians have always had an attachment to and fascination with the unspoiled wilderness around them. An hour by car from any city in Canada will take one to lakes, rivers, forests, or mountains.

Pressures have grown to regulate land ownership, especially ownership of recreational property, by non-Canadians and even by nonresidents of particular provinces, so that speculative investment does not distort land values and create social strains, and to avoid a situation where Canadians will not have access to the choicest property in our own country.<sup>50</sup> The land is of course the most precious of natural resources, and several provinces in Canada have legislated to regulate its disposition in the interests of their people,<sup>51</sup> while others have the issue under careful study.

In both Canada and the United States, the finite nature of our resource inheritance is increasingly appreciated, and this has raised similar concerns about availability in relation to national needs. In Canada this realization is matched by a desire to improve the economic benefit to Canadians from the export of our nonrenewable resources. We are now seeking to take fuller advantage of opportunities for refining, processing, and manufacturing in our own country. We can no longer welcome trading propositions in which access to our major markets for finished goods is sought, while tariffs are erected by our trading partners to discourage Canadian raw material exports, except in the most unprocessed form. Thus we look to the current Geneva negotiations of the Tokyo Round of the GATT for changes in tariff and nontariff barriers which will give Canada a fairer opportunity to process and manufacture her own products in Canada where it is economical to do so.

But whether financing comes from domestic or foreign sources,

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49. *Id.* at 224.

50. *See, e.g.,* Bruce, *Land Grab*, *MACLEAN's*, May 1975, at 25.

51. *See, e.g.,* Land Transfer Tax Act of 1974, Ont. Stat. c. 8 (1974).

Canada is not looking for unrestricted growth and environmental havoc. The public hearings held to consider the effects on the fragile northern ecology of the construction of a pipeline to bring Canadian Arctic gas to southern markets underscored this concern. There is also serious public concern about the hazards of supertanker traffic through the coastal waters of the three oceans which surround Canada.<sup>52</sup> This is particularly true of the Pacific coast, where the risks of a major oil spill in the waters off British Columbia from tankers bringing Alaskan oil into Puget Sound continue to cause apprehension. Bilateral and multilateral efforts to develop comprehensive environmental protection regimes must be encouraged and promoted so as to provide a viable international legal basis for preserving such ecologically sensitive areas.

In concluding these remarks, which have dealt with only some of the significant aspects of the subject under examination, it is appropriate to note that natural resource law, as it is emerging in national legal systems and in the context of the existing and future international legal order, is indeed a fascinating area for study and research. Its importance cannot be exaggerated. The almost overwhelming task of enhancing current knowledge and expertise is a challenge to which international lawyers can and will rise, to the benefit of their own countries and to the credit of their profession.

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52. This concern was manifested by the passage of the Arctic Waters Pollution Prevention Act, CAN. REV. STAT., 1st Supp., c. 2 (1970).