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The Canadian Approach to International Environmental Law

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THE Canadian approach to international environmental law can be stated simply and briefly. First, this law is inadequate both in scope and substance; it is incomplete, inconsistent, fragmentary, and largely inchoate. Second, it must be developed on the basis of the principle that states have a duty to preserve the environment and must accept responsibility for any damage they cause to the environment of another state or to the environment beyond any state's jurisdiction. Third, both substantive and adjectival law must be developed to enable effective application of this principle, either through existing institutions or through new ones established for the purpose of resolving environmental disputes.

The Canadian approach to pre-Stockholm environmental law was developed with some care and with certain specific objectives very clearly in mind. The approach has consisted of three types of action, some of it highly controversial: unilateral action, regional accords, and multilateral proposals.

Canadian unilateral action is perhaps the best known, particularly the Arctic Waters Pollution Prevention Act. Less well known but almost equally significant have been Canada's antipollution amendments to the Canada Shipping Act, the Territorial Seas and Fishing Zones Act, and the Fisheries Act.[1] The publicly stated reason for these unilateral acts was the incomplete and primitive state

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[1] Arctic Waters Pollution Prevention Act, S.C. 1970, c. 67; Canada Shipping Act, as amended, S.C. 1970-71, c. 27; Territorial Seas and Fishing Zones Act, as amended, S.C. 1970, c. 68; Fisheries Act, as amended, S.C. 1970, c. 63.