APPENDIX (11)

STATEMENT BY J. A. BEESLEY, REPRESENTATIVE OF CANADA
TO THE UNITED NATIONS COMMITTEE ON THE PEACEFUL
USES OF THE SEABED AND OCEAN FLOOR BEYOND
THE LIMITS OF NATIONAL JURISDICTION,
PALAIS DES NATIONS, GENEVA,
AUGUST 14, 1970

Mr. Chairman,

Before turning to the subject on our agenda, I should like to associate my delegation with the views of all those previous speakers who have paid tribute to your high qualities as chairman and have expressed appreciation for the skillful manner in which you are guiding our deliberations. We are all cognizant of the wisdom, patience, tact and perseverance displayed by you and the members of your bureau, qualities which have contributed so greatly to the progress of our committee.

My delegation has some difficulty in expressing definitive views on the subject now under discussion, namely international machinery—not because of any doubts as to the importance of the question but rather for precisely the contrary reasons. It is a truism which does not require elaboration on our part that there is an intimate interconnection and interpenetration between the issues raised by the principles under discussion in the Legal Sub-Committee, which are, as we see it, intended to lay the ground work for the proposed international regime, and the kinds of international institutions required to ensure the effective implementation of the regime. We are all aware also of the extent to which the studies of the Economic and Technical Sub-Committee on the technical, economic and scientific requirements of the proposed regime necessarily overlap not only with the studies of principles in the Legal Sub-Committee but with the discussion of machinery in the committee as a whole. For this reason, until relatively recently it has not, in our view, been very useful to attempt to go very far in spelling out the precise nature and structure of the proposed international machinery, since it must necessarily be adapted to the needs of the regime whose framework has just barely begun to emerge. We agree, however, with the majority view that our study of the

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principles to be applicable in the area beyond national jurisdiction has reached the stage where it becomes necessary to begin to attempt to determine, by this very process of debate in which my delegation is now engaging, the broad elements of the proposed international machinery. Our difficulty in discussing the subject at this stage is, however, not merely one arising out of the complexity and inter-relationship of the problems entailed, but our fear concerning the consequences of taking positions on a whole series of specific issues already being discussed in the committee, before we are able to see the total picture which we will be facing in a few years' time. We consider that it would be most unfortunate if unduly rigid positions were adopted on various sides on the many points of principle under discussion, if this were to have the result of states and groups of states adopting doctrinal attitudes, a development which could only complicate our work and lessen the chances of eventual agreement. The comments which follow are therefore intended not as definitive positions but only as very tentative views, and only on the very broad and general concepts which in our view must be tackled if we are to develop effective international institutions.

The first major question, obviously, is whether there is to be international machinery or whether it can be dispensed with for the time being. Our agreed purpose is to devise a system which would ensure that the area beyond national jurisdiction is reserved for purely peaceful uses and that the exploration and exploitation of its resources will be carried out in the interests and for the benefit of mankind, as a whole irrespective of the geographical location of states, taking into account the special interests and needs of the developing countries. It is, I think, no small accomplishment that, just as in the case of our discussion of principles--where there was a question arousing some considerable controversy just a few years ago, namely whether or not there is an area of the seabed and ocean floor beyond national jurisdiction, a concept now accepted by all without dispute--so in the case

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of international machinery, the educational process of states and their representatives seems to have reached the point where there is now a widespread and perhaps even general acceptance of the need for some form of international machinery. Our debate is indicative in this respect, since there has been little or no discussion of the question whether or not there should be international machinery. Attention has not or been directed to the appropriate form of machinery. In reaching this conclusion we are all undoubtedly indebted to some considerable extent to the excellent studies of this question by the Secretary-General, particularly that contained in Document A/AC138/23 of May 26. While criticisms have been expressed at the inclusion within that study of international machinery intended merely for the exchange of information and preparation of studies, in our view the inclusion of this form of machinery, if it can be so described, has fulfilled the useful function of illustrating in detached and objective terms, without any attempt at argumentation, the inadequacy of such a form of machinery.

A second question of some legal significance, on which there appears to be developing a majority view, if not yet a complete consensus, is that the proposed machinery must have a juridical personality with capacity, for example, to sue and be sued. It may be that some form of international institution with the capacity to hold actual title to the seabed may even prove necessary. My delegation reserves its position on this issue at the present time, although at a later stage I will revert to the need for the operators to be assured of some form of security of lease-title and tenure which may presuppose to some extent the existence of the capacity of some entity to confer title.

A third issue of some importance, on which there does not appear yet to be general agreement, is whether the proposed international institution should be merely a resource authority or an authority of broader scope including within its mandate all seabed activities. We have some difficulty

with either extreme position on this issue. On the one hand, we consider that the primary purpose of this committee is to promote the exploration and exploitation of the resources of the area in question in the interests of mankind as a whole, particularly the developing countries. On the other hand, we cannot conceive of this occurring if the proposed machinery does not have certain connected regulatory powers, for example, those necessary to enable it to guard against pollution of the sea arising out of seabed activities. Our own preference would be to confine the scope of the machinery to those purposes essential to ensure an efficient and equitable system of exploration and exploitation of the resources, and to proceed somewhat cautiously concerning other broad powers. Our reason for caution is not only our awareness of the complexity of the many questions entailed in attempting to regulate all other uses of the seabed, including, for example, cable laying, scientific research, etc., but our concern to ensure that the proposed machinery does not become so heavy and cumbersome that its operating costs eat up the profits, particularly in the early phases of its operation. As a practical point, we see some advantage in attempting to devise a system of machinery which would have all the essential elements provided for from the outset but which would begin with a skeletal structure, to be fleshed out as progress permits. It may be that a two phase development of machinery could be envisaged, intended to provide for immediate control of registration and exploration, with the gradual development of a second exploration and development phase. This would not be an interim regime but a comprehensive regime with interim machinery. We have no strong views on this question, but wish merely to raise it for consideration.

An issue closely related to the one last mentioned is whether the proposed machinery should be a wholly new institution or should be developed out of organs and agencies already existing within the UN family. The Canadian Government has traditionally opposed the proliferation of new

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agencies where there has been a readily available organ or institution which can be adapted to new purposes. In this case, however, while we continue to retain an open mind on the question, we are inclined to the view that the very nature of the task to be performed by the proposed machinery is so radically different from anything now being undertaken in the UN system that a new institution will be required which is not tied to traditions and practices intended for wholly different purposes.

Another issue closely related to the scope of the mandate of the proposed machinery is whether or not it should have the legal capacity and the administrative power to actually exploit the resources of the seabed. My delegation has no fixed position on the question, but our own inclination is to go very slowly concerning this possibility. While it might conceivably be useful to provide the proposed machinery with the power to engage in exploitation at some stage in the far distant future, we tend to the view that exploitation should be left to states (or their nominees) as those most likely to have the necessary expertise. Here too, we would be concerned about making the proposed machinery too cumbersome and building up overhead costs which might never be warranted by returns.

Turning to the acuual structure of the proposed machinery, there seems to be a developing consensus that it ought to comprise a governing body, a plenary body of some sort, whether a conference or an assembly, a Secretariat and some type of disputes settlement tribunal. Other more limited and specific types of machinery may also be required, as suggested in the USA working paper to which I shall refer again in a few moments, but my delegation is not yet prepared to comment on such specific and detailed proposals. With respect to the composition of the organs of the proposed machinery it is evident that there is already some disagreement as to whether the "one state-one vote" principle should apply throughout or whether some other decision-making system should be devised. My delegation prefers to reserve its position on

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this question for the time being. As to whether regional institutions could also be developed, we see no objection, provided their constitutions and working rules are compatible with the proposed regime. It may well be that regional institutions could provide an effective means for enabling developing countries to work together in their mutual interests, to offset the disadvantages of gaps in technology. One issue arising out of a consideration of the structure of the proposed machinery, on which relatively little has been said thus far, is whether it may prove ultimately necessary to establish some form of inspection authority, perhaps even with policing powers, such as a "sea guard". No one seems anxious to press any such proposal, but it is within the realm of possibility and it may in time prove necessary to consider such a possibility.

Mr. Chairman, I should like to turn now to discussion of one of the basic functions to be performed by the proposed machinery. There seems to be general agreement that whether or not the proposed machinery should have the power itself to carry out exploration and exploitation, it must have the power to register and license such activities by others. There seems to be general agreement also that mere registration would not suffice and that a licensing system must be laid down. Differences of views exist as to whether or not licenses should be confined only to states. I should perhaps observe, Mr. Chairman, that the question of the type of licensing system to be developed might be considered to fall more properly within the discussion of the regime than within the machinery, but in the view of my delegation this is one of those questions which partakes of some aspects of both of those two major subjects, and I shall therefore offer some comments on it at this time.

To begin with, I should like to stress our view that the system of licensing which we devise could contain the key to success or failure of our efforts. The subject may seem a prosaic one, but its importance should not be downgraded. It is worth noting, for example, that the Secretary-General's report, as well as the US, French and UK working papers all devote considerable

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attention to this question.

Mr. Chairman, we are aware that there are many different types of licensing systems in effect in different parts of the world. The differences relate not merely to the nature and extent of the discretionary powers exercised by the licensing authority but to the basic premises on which the licensing system may be founded. For example, to express the extreme theoretical positions, the basic purpose behind licensing may be conservation of resources or it may be the encouragement of development of resources. It may, of course, be a combination of both, together with the need to guard against pollution. In the case of the licensing system we must devise, it is the considered Canadian view that the international regime and the machinery to be established for the administration and management of the resources of the seabed beyond the limits of national jurisdiction should be directed at least in its early years, primarily towards the encouragement of the exploration and later exploitation of these resources. As pointed out by our representative in the Economic and Technical Sub-Committee, the single most important factor in promoting resource exploitation in these areas will be the necessity of establishing a system of resource management designed to encourage and maintain investment--from whatever sources--on a continuing and orderly basis. The large amounts of investment capital needed simply will not be forthcoming without the assurance of an impartial and enlightened regulatory and administrative climate in which to operate.

A few general comments may be appropriate at this point. It seems to be common ground that we must produce a balanced and equitable regime for the exploration and exploitation of the resources of the seabed and ocean floor beyond the limits of national jurisdiction. Even if we fulfill this high purpose, however, we would not have gone far enough if we did not at the same time ensure that from a purely practical point of view, taking into account the technical, economic and scientific as well as legal and political

considerations entailed, the regime meets the essential test of efficiency. I am not now referring to such questions as profits and royalties. I refer rather to the need to ensure that the regime is carefully designed to encourage, to the greatest extent possible, the actual exploration and exploitation without which there can be no benefits to mankind. Exploitation of the seabed, even in relatively shallow depths, requires tremendous investments of resources. We must therefore attempt to strike a balance between the need to attract investment capital and the overriding requirement to ensure that the results of exploitation fulfill our basic purpose of really benefitting mankind as a whole, particularly the developing countries. The secret, in our view, lies not merely in devising a regime intended to maximize royalties for the international community, while ensuring adequate profits for operators, but in devising a resource management system devoid of any unnecessary red tape, that is to say, one which is specifically designed to encourage exploration and exploitation. Clearly restraints will have to be devised, for example, to guard against the dislocation of markets. We must, however, avoid the danger of developing a regime which has the effect of setting aside a vast area for the benefit of mankind without ensuring the necessary followup activity to bring about such benefits. At some stage conservation of resources rather than exploitation and development may become the overriding purpose. We do not consider that this should present undue difficulties. For many years to come our concern should be to ensure that actual exploration and exploitation of the seabed area will be a practicable possibility and this aim is not incompatible either with conservation or safe and secure practices.

Turning to specific issues on licensing, as Dr. Crosby has pointed out in the Economic and Technical Sub-Committee, my delegation sees no need to design a number of different regimes based on differences in technological or other factors. We consider that it is possible and, indeed, preferable, that the proposed machinery be endowed with the necessary powers to

administer an overall regime broad and flexible enough to have the capability of dealing with the whole range of problems to be encountered. The machinery must administer the arrangements by which rights to the resources will be made available to operators and ensure compliance with the terms and conditions that operators are expected to fulfill. The machinery must, therefore, have the capacity to ensure that exploration and exploitation operations will be supervised and controlled. What is entailed is a range of practical issues, on which success or failure of the regime could depend, including the regulation and issuance of terminable grants of forms of tenure, the specifying of the scale of the fees, rentals, royalties and other such charges to be levied, the work requirements that must be met in order to hold the grants involved, and the other several items related to the disposition to these resources. A question to which I have already referred, and a basic one, is that there be some manner of ensuring lease titles. The lease system must not only work effectively, vis-à-vis individual operators, it must at the same time be designed so as not to specially favour any particular national interest.

I might mention that the Canadian management system is specifically designed to encourage exploration and exploitation and thus our experience may be of particular relevance. Indeed, our system has been referred to favourably by a number of delegations in the Economic and Technical Sub-Committee, most recently by the distinguished representative of Australia in yesterday's meeting of the Economic and Technical Sub-Committee. We therefore offer the following comments on the Canadian offshore resource management system in the hope that it may prove useful to the Committee. The system entails the following elements. Firstly, before undertaking exploratory work of any kind in the Canadian offshore, a party must first acquire what we term an exploratory license. An exploratory license under the Canadian regulations is simply authorization for the licensee to carry out exploration work in any region of the Canadian offshore, short of evaluation work. It has

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been referred to as a "hunting license". In the case of oil and gas, this means that a licensee can carry out exploration work anywhere in the Canadian offshore short of drilling a well in excess of a specified depth. The basic concept here is the encouragement of work through the granting of exploration rights on a non-exclusive basis for a nominal fee. The second element in the Canadian system is the exploratory permit, which, in contrast to an exploratory license, relates to and is confined to a specific area. This area is defined by lines of longitude and latitude so that it can be readily located and described (i.e. a grid system similar to that suggested in the USA, French and UK working papers). An oil and gas exploratory permit gives the permittee two advantages over his competitors: first, the option of acquiring exploitation rights within the permit area; and, secondly, the privilege of being allowed to drill wells within the permit area beyond the limited depth allowed under the exploratory license. All parties must submit notices including detailed descriptions of all proposed offshore programs, including each and every proposed well, and all proposed programs must be approved before they can be carried out. An applicant must pay a fee for each permit at the time of issuance, and he must also deposit money, bonds or a demand promissory note suitably guaranteed at the same time to the full amount of the work requirements for the first period of the permit as a guaranty that the work will be carried out. (This type of approach seems to have been adopted in the USA, French and United Kingdom working papers.) Similarly, guaranty deposits must be made prior to each succeeding work period. All such guaranty deposits are returned upon receipt of satisfactory evidence that appropriate work has been performed.

Permits are valid for a specific period of years with renewals of one year. They carry work requirements that increase progressively so as to reflect the progressive increase in expenditures necessary to effectively evaluate an area, from relatively inexpensive preliminary geological and

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geophysical work, through more expensive geophysical surveys, to high cost drilling operations. (These elements also appear to be in large part common to the three working papers mentioned.)

The third element in the Canadian system is the exploitation lease. Commercial production cannot be undertaken while acreage is still in permit form; it must first be converted to lease, whereupon Canada receives a rate of royalty on production. A permittee may acquire leases covering up to half the area of a permit at the normal rates of royalty. That portion of the permit not converted to lease reverts to Canada. Such reverted rights may be issued to the permittee, if he undertakes to pay an additional royalty thereon, the rate of which is graduated in accordance with the volume of production, or they may be issued by way of public tender, by one of a number of methods: work bonus, cash bonus, or cash bonus with an undertaking to carry out evaluation work. Of course it is possible to envisage the step procedure, merging the second and third stage, but we suggest that it is important to keep the first exploration stage.

It will be noted that under the Canadian system the issuance of rights is not based upon discretionary authority vested in the administering body. The system is not one whereby nominations or applications are invited and the most attractive of these is selected by the administering authority, although we understand that systems of this nature are successfully utilized elsewhere in the world. Of course, the duties of administration and management at the national level involve of necessity many discretionary decisions on the part of administrators. Taking into consideration the complications and pressures on administrators at the national level, one can readily appreciate how much more acute these considerations could be at the international level. We believe it would be wise to attempt to design both the international regime and machinery so that the administering authority will be able to operate in the most objective fashion possible, without the added complication of

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political pressures to which an administrator may be subjected when granted the wide discretionary power of selecting the parties to whom rights shall be issued. Care will have to be taken to ensure that the administering authority is not accorded more power than it can exercise effectively. The whole thrust of the licensing system must be towards the encouragement of exploitation through a simple streamlined administrative process.

We of the Canadian Delegation are equally concerned with the second general field of interest which I mentioned previously, namely the manner in which exploration and exploitation operations are to be supervised and controlled. It is important to ensure that activities beyond the limits of national jurisdiction are carried out in accordance with adequate requirements in respect of safety, conservation, pollution, and the various other technical but extremely important criteria.

A central aspect to the proposed licensing system, is the need to control pollution. Pollution is a complex subject in itself and certainly one the solution to which is basic to the future well-being of all mankind. Although it is clearly in the world's interest to facilitate the orderly development of what may be vast new areas of mineral resource potential beyond the limits of national jurisdiction, it is necessary at the same time to protect the vulnerable ocean environment from pollution by means of effective supervision and controls. We must be concerned with measures designed to protect the ecology of our seas and oceans. Conservation of the living resources of the sea and the water itself are vital objectives. The ocean environment must be preserved in the interests of the multitude of people who use it and depend upon it.

As pointed out by our representative in the Economic and Technical Committee, Dr. Crosby, there has been a tremendous advance in the field of offshore technology over recent years, due primarily to the impetus of offshore petroleum exploration. It is difficult to visualize at this point in time

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just what the future, even the relatively near future, will bring in the way of offshore development. Competent supervision of offshore mineral resource operations is a complex and difficult field requiring highly specialized expertise, and on the scale that we are envisaging here this will be especially true. Using the case of offshore oil drilling as an example, there are two primary concerns as regards the prevention of pollution: first, the drilling procedures and equipment; and secondly, the seaworthiness of the installations and vessels involved. These are also basic to ensuring the safety of personnel. With respect to the first item, drilling procedures and equipment, safety and pollution control involve a number of primary considerations with regard to each and every well, such as: design and implementation of effective casing and cementing programs; adequate blowout prevention and related equipment; proper disposal of drilling and reservoir fluids. Each of these is in itself a complicated subject.

With respect to the second item, seaworthiness of the installations and vessels involved, the prior assessment of any proposed drilling program should take into account not only the many factors related to the way in which the well is to be drilled, but also the suitability and capabilities of the equipment to be used as regards the sea and other conditions that can be expected during the course of operations. Many highly technical factors are involved here, under such general headings as stability, buoyance and moorings, that are vital to the operation as a whole. These have a fundamental bearing with respect to effective and uninterrupted well control and the safety of personnel on board. All of these considerations, Mr. Chairman, must be taken into account in the elaboration of the licensing system as part of the proposed regime. They must therefore be taken into account equally in considering the necessary international machinery for the administration of the regime. I hope that serious consideration will be given to these issues and that no proposals based upon relevant usage will be rejected prematurely.

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My main purpose however in speaking at such length on licensing is to attempt to ensure that it gets the kind of attention in the committee as a whole which it warrants and which, incidentally, it has received in the three working papers mentioned and in the study of the Secretary-General.

Mr. Chairman, I would not wish to conclude without paying tribute to the delegations of the USA, France, and the United Kingdom for the great service they have rendered to this committee by the working papers they have tabled. Each of these papers is being studied with interest and care by my delegation and will be under consideration as well, of course, in Ottawa. It would therefore be inappropriate for me to attempt to comment substantively on them at this stage. We have no doubt however that they will prove of invaluable assistance to the committee. The USA working paper in particular represents a veritable "tour de force". Whether or not its many substantive provisions meet with general acceptance, the draft treaty must be recognized as a truly far-reaching proposal and one on which the USA Government is to be congratulated for the vision and imagination as well as the careful and precise drafting reflected in it. Like other delegations, we will in due course wish to offer comments on the USA working paper as well as those of France and the United Kingdom.

May I conclude, Mr. Chairman, by thanking the members of the committee for their attention and assuring you of our continuing commitment to the high purposes of our joint endeavours.

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The first major question, obviously, is whether there is to be international machinery or whether it can be dispensed with for the time being. Our agreed purpose is to devise a system which would ensure that the area beyond national jurisdiction is reserved for purely peaceful uses and that the exploration and exploitation of its resources will be carried out in the interests and for the benefit of mankind, as a whole irrespective of the geographical location of states, taking into account the special interests and needs of the developing countries. It is, I think, no small accomplishment that, just as in the case of our discussion of principles--where there was a question arousing some considerable controversy just a few years ago, namely whether or not there is an area of the seabed and ocean floor beyond national jurisdiction, a concept now accepted by all without dispute--so in the case

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of international machinery, the educational process of states and their representatives seems to have reached the point where there is now a widespread and perhaps even general acceptance of the need for some form of international machinery. Our debate is indicative in this respect, since there has been little or no discussion of the question whether or not there should be international machinery. Attention has rather been directed to the appropriate form of machinery. In reaching this conclusion we are all undoubtedly indebted to some considerable extent to the excellent studies of this question by the Secretary-General, particularly that contained in Document A/AC138/23 of May 26. While criticisms have been expressed at the inclusion within that study of international machinery intended merely for the exchange of information and preparation of studies, in our view the inclusion of this form of machinery, if it can be so described, has fulfilled the useful function of illustrating in detached and objective terms, without any attempt at argumentation, the inadequacy of such a form of machinery.

A second question of some legal significance, on which there appears to be developing a majority view, if not yet a complete consensus, is that the proposed machinery must have a juridical personality with capacity, for example, to sue and be sued. It may be that some form of international institution with the capacity to hold actual title to the seabed may even prove necessary. My delegation reserves its position on this issue at the present time, although at a later stage I will revert to the need for the operators to be assured of some form of security of lease-title and tenure which may presuppose to some extent the existence of the capacity of some entity to confer title.

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Turning to the actual structure of the proposed machinery, there seems to be a developing consensus that it ought to comprise a governing body, a plenary body of some sort, whether a conference or an assembly, a Secretariat and some type of disputes settlement tribunal. Other more limited and specific types of machinery may also be required, as suggested in the USA working paper to which I shall refer again in a few moments, but my delegation is not yet prepared to comment on such specific and detailed proposals. With respect to the composition of the organs of the proposed machinery it is evident that there is already some disagreement as to whether the "one state-one vote" principle should apply throughout or whether some other decision-making system should be devised. My delegation prefers to reserve its position on

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Mr. Chairman, I should like to turn now to discussion of one of the basic functions to be performed by the proposed machinery. There seems to be general agreement that whether or not the proposed machinery should have the power itself to carry out exploration and exploitation, it must have the power to register and license such activities by others. There seems to be general agreement also that mere registration would not suffice and that a licensing system must be laid down. Differences of views exist as to whether or not licensees should be confined only to states. I should perhaps observe, Mr. Chairman, that the question of the type of licensing system to be developed might be considered to fall more properly within the discussion of the regime than within the machinery, but in the view of my delegation this is one of those questions which partakes of some aspects of both of those two major subjects, and I shall therefore offer some comments on it at this time.

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attention to this question.

Mr. Chairman, we are aware that there are many different types of licensing systems in effect in different parts of the world. The differences relate not merely to the nature and extent of the discretionary powers exercised by the licensing authority but to the basic premises on which the licensing system may be founded. For example, to express the extreme theoretical positions, the basic purpose behind licensing may be conservation of resources or it may be the encouragement of development of resources. It may, of course, be a combination of both, together with the need to guard against pollution. In the case of the licensing system we must devise, it is the considered Canadian view that the international regime and the machinery to be established for the administration and management of the resources of the seabed beyond the limits of national jurisdiction should be directed at least in its early years, primarily towards the encouragement of the exploration and later exploitation of these resources. As pointed out by our representative in the Economic and Technical Sub-Committee, the single most important factor in promoting resource exploitation in these areas will be the necessity of establishing a system of resource management designed to encourage and maintain investment--from whatever sources--on a continuing and orderly basis. The large amounts of investment capital needed simply will not be forthcoming without the assurance of an impartial and enlightened regulatory and administrative climate in which to operate.

A few general comments may be appropriate at this point. It seems to be common ground that we must produce a balanced and equitable regime for the exploration and exploitation of the resources of the seabed and ocean floor beyond the limits of national jurisdiction. Even if we fulfill this high purpose, however, we would not have gone far enough if we did not at the same time ensure that from a purely practical point of view, taking into account the technical, economic and scientific as well as legal and political

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considerations entailed, the regime meets the essential test of efficiency. I am not now referring to such questions as profits and royalties. I refer rather to the need to ensure that the regime is carefully designed to encourage, to the greatest extent possible, the actual exploration and exploitation without which there can be no benefits to mankind. Exploitation of the seabed, even in relatively shallow depths, requires tremendous investments of resources. We must therefore attempt to strike a balance between the need to attract investment capital and the overriding requirement to ensure that the results of exploitation fulfill our basic purpose of really benefitting mankind as a whole, particularly the developing countries. The secret, in our view, lies not merely in devising a regime intended to maximize royalties for the international community, while ensuring adequate profits for operators, but in devising a resource management system devoid of any unnecessary red tape, that is to say, one which is specifically designed to encourage exploration and exploitation. Clearly restraints will have to be devised, for example, to guard against the dislocation of markets. We must, however, avoid the danger of developing a regime which has the effect of setting aside a vast area for the benefit of mankind without ensuring the necessary followup activity to bring about such benefits. At some stage conservation of resources rather than exploitation and development may become the overriding purpose. We do not consider that this should present undue difficulties. For many years to come our concern should be to ensure that actual exploration and exploitation of the seabed area will be a practicable possibility and this aim is not incompatible either with conservation or safe and secure practices.

Turning to specific issues on licensing, as Dr. Crosby has pointed out in the Economic and Technical Sub-Committee, my delegation sees no need to design a number of different regimes based on differences in technological or other factors. We consider that it is possible and, indeed, preferable, that the proposed machinery be endowed with the necessary powers to

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administer an overall regime broad and flexible enough to have the capability of dealing with the whole range of problems to be encountered. The machinery must administer the arrangements by which rights to the resources will be made available to operators and ensure compliance with the terms and conditions that operators are expected to fulfill. The machinery must, therefore, have the capacity to ensure that exploration and exploitation operations will be supervised and controlled. What is entailed is a range of practical issues, on which success or failure of the regime could depend, including the regulation and issuance of terminable grants of forms of tenure, the specifying of the scale of the fees, rentals, royalties and other such charges to be levied, the work requirements that must be met in order to hold the grants involved, and the other several items related to the disposition to these resources. A question to which I have already referred, and a basic one, is that there be some manner of ensuring lease titles. The lease system must not only work effectively, vis-à-vis individual operators, it must at the same time be designed so as not to specially favour any particular national interest.

I might mention that the Canadian management system is specifically designed to encourage exploration and exploitation and thus our experience may be of particular relevance. Indeed, our system has been referred to favourably by a number of delegations in the Economic and Technical Sub-Committee, most recently by the distinguished representative of Australia in yesterday's meeting of the Economic and Technical Sub-Committee. We therefore offer the following comments on the Canadian offshore resource management system in the hope that it may prove useful to the Committee. The system entails the following elements. Firstly, before undertaking exploratory work of any kind in the Canadian offshore, a party must first acquire what we term an exploratory license. An exploratory license under the Canadian regulations is simply authorization for the licensee to carry out exploration work in any region of the Canadian offshore, short of evaluation work. It has

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been referred to as a "hunting license". In the case of oil and gas, this means that a licensee can carry out exploration work anywhere in the Canadian offshore short of drilling a well in excess of a specified depth. The basic concept here is the encouragement of work through the granting of exploration rights on a non-exclusive basis for a nominal fee. The second element in the Canadian system is the exploratory permit, which, in contrast to an exploratory license, relates to and is confined to a specific area. This area is defined by lines of longitude and latitude so that it can be readily located and described (i.e. a grid system similar to that suggested in the USA, French and UK working papers). An oil and gas exploratory permit gives the permittee two advantages over his competitors: first, the option of acquiring exploitation rights within the permit area; and, secondly, the privilege of being allowed to drill wells within the permit area beyond the limited depth allowed under the exploratory license. All parties must submit notices including detailed descriptions of all proposed offshore programs, including each and every proposed well, and all proposed programs must be approved before they can be carried out. An applicant must pay a fee for each permit at the time of issuance, and he must also deposit money, bonds or a demand promissory note suitably guaranteed at the same time to the full amount of the work requirements for the first period of the permit as a guaranty that the work will be carried out. (This type of approach seems to have been adopted in the USA, French and United Kingdom working papers.) Similarly, guaranty deposits must be made prior to each succeeding work period. All such guaranty deposits are returned upon receipt of satisfactory evidence that appropriate work has been performed.

Permits are valid for a specific period of years with renewals of one year. They carry work requirements that increase progressively so as to reflect the progressive increase in expenditures necessary to effectively evaluate an area, from relatively inexpensive preliminary geological and

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geophysical work, through more expensive geophysical surveys, to high cost drilling operations. (These elements also appear to be in large part common to the three working papers mentioned.)

The third element in the Canadian system is the exploitation lease. Commercial production cannot be undertaken while acreage is still in permit form; it must first be converted to lease, whereupon Canada receives a rate of royalty on production. A permittee may acquire leases covering up to half the area of a permit at the normal rates of royalty. That portion of the permit not converted to lease reverts to Canada. Such reverted rights may be issued to the permittee, if he undertakes to pay an additional royalty thereon, the rate of which is graduated in accordance with the volume of production, or they may be issued by way of public tender, by one of a number of methods: work bonus, cash bonus, or cash bonus with an undertaking to carry out evaluation work. Of course it is possible to envisage a two-step procedure, merging the second and third stage, but we suggest that it is important to keep the first exploration stage.

It will be noted that under the Canadian system the issuance of rights is not based upon discretionary authority vested in the administering body. The system is not one whereby nominations or applications are invited and the most attractive of these is selected by the administering authority, although we understand that systems of this nature are successfully utilized elsewhere in the world. Of course, the duties of administration and management at the national level involve of necessity many discretionary decisions on the part of administrators. Taking into consideration the complications and pressures on administrators at the national level, one can readily appreciate how much more acute these considerations could be at the international level. We believe it would be wise to attempt to design both the international regime and machinery so that the administering authority will be able to operate in the most objective fashion possible, without the added complication of

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political pressures to which an administrator may be subjected when granted the wide discretionary power of selecting the parties to whom rights shall be issued. Care will have to be taken to ensure that the administering authority is not accorded more power than it can exercise effectively. The whole thrust of the licensing system must be towards the encouragement of exploitation through a simple streamlined administrative process.

We of the Canadian Delegation are equally concerned with the second general field of interest which I mentioned previously, namely the manner in which exploration and exploitation operations are to be supervised and controlled. It is important to ensure that activities beyond the limits of national jurisdiction are carried out in accordance with adequate requirements in respect of safety, conservation, pollution, and the various other technical but extremely important criteria.

A central aspect to the proposed licensing system, is the need to control pollution. Pollution is a complex subject in itself and certainly one the solution to which is basic to the future well-being of all mankind. Although it is clearly in the world's interest to facilitate the orderly development of what may be vast new areas of mineral resource potential beyond the limits of national jurisdiction, it is necessary at the same time to protect the vulnerable ocean environment from pollution by means of effective supervision and controls. We must be concerned with measures designed to protect the ecology of our seas and oceans. Conservation of the living resources of the sea and the water itself are vital objectives. The ocean environment must be preserved in the interests of the multitude of people who use it and depend upon it.

As pointed out by our representative in the Economic and Technical Committee, Dr. Crosby, there has been a tremendous advance in the field of offshore technology over recent years, due primarily to the impetus of offshore petroleum exploration. It is difficult to visualize at this point in time

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just what the future, even the relatively near future, will bring in the way of offshore development. Competent supervision of offshore mineral resource operations is a complex and difficult field requiring highly specialized expertise, and on the scale that we are envisaging here this will be especially true. Using the case of offshore oil drilling as an example, there are two primary concerns as regards the prevention of pollution: first, the drilling procedures and equipment; and secondly, the seaworthiness of the installations and vessels involved. These are also basic to ensuring the safety of personnel. With respect to the first item, drilling procedures and equipment, safety and pollution control involve a number of primary considerations with regard to each and every well, such as: design and implementation of effective casing and cementing programs; adequate blowout prevention and related equipment; proper disposal of drilling and reservoir fluids. Each of these is in itself a complicated subject.

With respect to the second item, seaworthiness of the installations and vessels involved, the prior assessment of any proposed drilling program should take into account not only the many factors related to the way in which the well is to be drilled, but also the suitability and capabilities of the equipment to be used as regards the sea and other conditions that can be expected during the course of operations. Many highly technical factors are involved here, under such general headings as stability, buoyance and moorings, that are vital to the operation as a whole. These have a fundamental bearing with respect to effective and uninterrupted well control and the safety of personnel on board. All of these considerations, Mr. Chairman, must be taken into account in the elaboration of the licensing system as part of the proposed regime. They must therefore be taken into account equally in considering the necessary international machinery for the administration of the regime. I hope that serious consideration will be given to these issues and that no proposals based upon relevant usage will be rejected prematurely.

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My main purpose however in speaking at such length on licensing is to attempt to ensure that it gets the kind of attention in the committee as a whole which it warrants and which, incidentally, it has received in the three working papers mentioned and in the study of the Secretary-General.

Mr. Chairman, I would not wish to conclude without paying tribute to the delegations of the USA, France, and the United Kingdom for the great service they have rendered to this committee by the working papers they have tabled. Each of these papers is being studied with interest and care by my delegation and will be under consideration as well, of course, in Ottawa. It would therefore be inappropriate for me to attempt to comment substantively on them at this stage. We have no doubt however that they will prove of invaluable assistance to the committee. The USA working paper in particular represents a veritable "tour de force". Whether or not its many substantive provisions meet with general acceptance, the draft treaty must be recognized as a truly far-reaching proposal and one on which the USA Government is to be congratulated for the vision and imagination as well as the careful and precise drafting reflected in it. Like other delegations, we will in due course wish to offer comments on the USA working paper as well as those of France and the United Kingdom.

May I conclude, Mr. Chairman, by thanking the members of the committee for their attention and assuring you of our continuing commitment to the high purposes of our joint endeavours.