

Statement by J. Alan Beesley
in Sub-Committee III
of the U.N. Seabed Committee

April 6, 1973

Mr. Chairman, I should like to take this opportunity to comment briefly on the two reports submitted to us today. I should like to begin by expressing the gratification of the Canadian Delegation at the progress made at this session in the Working Group on Marine Pollution. Our appreciation and congratulations are directed primarily to Mr. Vallarta, the Chairman of the Working Group, who guided its work so skilfully and so successfully. I should also, however, like to pay tribute to the many delegations which participated in the informal consultations and in the working group, without whose hard work and consistent, patient and determined effort to reach accommodations it would have proved impossible to achieve so much.

I should also like to compliment you, Mr. Chairman, for your own skilful guidance of the debates of the Sub-Committee, which laid the groundwork for the subsequent progress in the working group of the extent of the progress, namely a provisional common text of four draft articles on a comprehensive draft treaty on the control of marine pollution and the preservation of the marine environment. While these four draft articles do not touch on the basic issue of coastal state jurisdiction, they represent no small accomplishment given the fact that we began this session with no concrete draft articles. We are particularly grateful for the favourable reaction by other delegations to the draft articles submitted by Canada. We should also like to compliment the delegates of Australia, the USSR and Malta for the major contributions they made to the progress of the working group through the working papers which they tabled, and for the spirit of conciliation they displayed in working out a common text of the four provisional articles. Similarly, the USA delegation which has not yet submitted draft articles and which does not wholly share the position of my delegation on some issues, has worked so constructively in seeking accommodations that I have no doubt we would have been unable to make such considerable progress without their consistently high level of contributions to our work. May I suggest, Mr. Chairman, that any delegations

proposing to submit further texts based upon the provisional agreements reached, not submit totally new texts on the area of progress to date.

Mr. Chairman, we are aware that there are still difficult issues before us, particularly the need to balance coastal state interests and flag state interests. I should like to make clear that the Canadian Delegation will continue to co-operate in our future efforts to reach agreement on these questions. It seems clear to my delegation that there is a prevailing trend of opinion that the solution to the problem of preservation of the marine environment and control of pollution lies in agreement upon enforcement by coastal states of internationally agreed standards. I should like to stress that this is the approach which my own delegation strongly supports. There is as yet less agreement on the extent to which a residual standard-setting authority may be delegated to the coastal state to take action in special circumstances or to take account of local or regional problems, but I am confident that it will prove possible to work out an accommodation of interests on this issue as well. The approach of the Canadian Delegation is well known internationally, namely that the solution lies in the concept of shared or universal jurisdiction, that is to say, enforcement by both coastal states and flag states of agreed measures - or coastal-state standards in exceptional circumstances - in areas adjacent to the territorial sea of coastal states to a distance as yet undetermined, and stricter enforcement than heretofore by flag states of agreed measures in the high seas beyond the environmental protection zones. It is clear of course that on this issue as on every other one facing the Law of the Sea Conference it will never be possible to spell out in detail every single aspect of the range of problems and the solutions to them. There must always be some element left to the good faith of states and to the process of third party compulsory adjudication in the event of disputes. We are hopeful, however, that it will prove possible to reach agreement on these issues, perhaps even during the next session of this Committee at Geneva this summer.

I have listened with interest to the statement of the representative of Greece. I recall that his delegation stated at the London Dumping Convention Conference that what we were asking of his country was that it give up certain rights. My delegation confirmed that that was exactly what was being asked: all states are going to have to give up the right to pollute the oceans at will. Under the existing doctrine of freedom of the high seas, we agree, of course, that it is necessary to work out a sensible basis of accommodation between the rights of coastal states and the rights of flag states. The Greek Delegation has itself sought to do this in the draft articles which it has co-sponsored on the proposed regime for the territorial sea and for passage through straits used for international navigation. It is interesting to note that in those proposals the right and duty of the coastal state to protect the marine environment is clearly recognized. Indeed, it is a little difficult to reconcile that proposal by the Greek Delegation with the statement just made by the representative of Greece that "the sovereignty of the flag state is absolute". Our own approach is to attempt to resolve the apparent conflict of interests - more apparent than real, in my view, through the concept of shared jurisdiction, whereby both flag states and coastal states will be able to enforce agreed treaty rules for the preservation of the marine environment. It is in this sense that we should like to understand the statement we have just heard.

With respect to the comments made concerning IMCO, we agree that IMCO has an important role to play in developing technical rules for the safety of shipping and protection of the marine environment, and we strongly support the suggestion made last week by the representative of IMCO when he called for increased participation in IMCO by developing countries. What we must, of course, ensure is that the draft treaties produced by IMCO are consistent with the comprehensive approach we are together developing in this Sub-Committee.

I would also like to express the gratification of the Canadian Delegation at the setting up of a working group on scientific research and transfer of technology and to congratulate the newly elected

Chairman of the working group, the distinguished representative of Poland, for his well-deserved election and for the achievement of the working group in already agreeing upon a request to governments similar to that agreed last summer in Geneva in the working group on marine pollution, namely for the submission of comments by governments preferably in the form of draft articles. It is our hope that it will be possible to produce Canadian draft articles on this matter based upon the working paper on scientific research submitted by the Canadian delegation at last summer's session of the sub-committee in Geneva. The sub-committee has barely begun its consideration of the related question of transfer of technology, and it is the hope of my delegation that governments will also comment on this question in replying to the request for governmental views.

Thank you, Mr. Chairman.