

ANNEX

STATEMENT OF
INTERPRETATION, COMMENTS, RESERVATIONS AND PROPOSALS

Proposal by Canada:

ARTICLE 63

Stocks occurring within the exclusive economic zones of two or more coastal States or both within the economic exclusive zone and in an area beyond and adjacent to it.

2. Where the same stock or stocks of associated species occur both within the EEZ and in an area beyond and adjacent to the zone, the coastal state and the States fishing for such stocks in the adjacent area shall seek either directly or through appropriate subregional or regional organizations to agree upon the measures necessary for the conservation of these stocks in the adjacent area and, in any event, shall adopt, or cooperate in adopting, such measures. In the event that agreement is not reached within a reasonable period, and proceedings are instituted before the appropriate tribunal pursuant to article 286, that tribunal shall determine the measures to be applied in the adjacent area for the conservation of these stocks and shall determine provisional measures if definitive measures cannot be determined within a reasonable period. In establishing such measures, the tribunal shall take into account those measures applied to the same stocks by the coastal state within its EEZ and the interests of states fishing these stocks.

ARTICLE 65

The current USA proposal for a change to the existing text of Article 65 in the ICNT, Rev.I, would require states to "work through the appropriate international organizations" for the conservation, management and study of cetaceans. The Canadian delegation supports the text proposed by the USA as an improvement over the current text in providing a better basis for the conservation of marine mammals, and wishes to have recorded the following interpretation of the second sentence of the proposed text.

- a) the obligation for any particular state is to "work through" an appropriate international organization. In other words there is no obligation on any state to "work through" more than one appropriate international organization.
- b) the obligation to "work through" an appropriate international organization as regards individual stocks of cetaceans arises as regards any particular stock only when the status of the stock is such that the attention of the appropriate international organization is necessary to assist in the conservation, management and study of the stock.
- c) the obligation to "work through the appropriate international organizations" can be fulfilled through consultation with the scientific bodies of such organizations in the process of development of measures in accordance with the sovereign rights and obligations of coastal states within their 200 mile zones.

ARTICLE 74, PARAGRAPH 1 ARTICLE 83, PARAGRAPH I

The Conference is deeply divided on this issue and a formula is needed which represents a genuine balance of interests. The text proposed by Judge Manner, while not entirely satisfactory to any delegation, including my own, would seem to provide a basis for moving closer towards consensus.

Unfair Practices

The Chairman of Committee I flagged in his report the question of unfair practices, raised separately by Australia and certain land-based producers. While some consideration was given to this issue even while the Chairman's report was being prepared, it would seem essential that a fundamental term of all contracts issued by the Authority should require States parties not to provide subsidies, including those of a financial, fiscal, commercial, trade or industrial nature, to contractors in respect of the exploitation of seabed resources that have the effect of furnishing to such contractors a competitive commercial advantage over land-based producers of similar resources. While the words may need adjusting to reflect different social and economic systems, the principle should be clearly embodied in a treaty obligation.

ARTICLE 151, PARAGRAPH 2

Issuance of Production Authorization

The introduction to paragraph 2 of Article 151 in the Chairman's Report is a significant improvement in defining a production authorization and is the result of long dialogue.

ARTICLE 151, PARAGRAPH 2 (a)

Interim Period

Paragraph 2(a) is also clear in its intent which is to provide a definition of the interim period.

ARTICLE 151, PARAGRAPHS 2(c), (d) AND (e)

Enterprise Preference, Re-Application for Production Authorization and Variable Production

Paragraphs 2(c), (d) and (e) are items upon which delegations have been negotiating in good faith and if there are still differences these show promise of resolution.

ARTICLE 151, PARAGRAPH 2(f)

Level of Production of Other Metals

Paragraph 2(f) is a useful clarification as to level of production of copper, cobalt and manganese in relation to plan of work.

ARTICLE 151, PARAGRAPH 3

There are still some ambiguities in the power assigned to the Authority in limiting production of minerals from the Area, other than minerals from nodules, which should be eliminated.

ARTICLE 151, PARAGRAPH 4
Compensatory Financing

The Canadian delegation reserves its position on the text contained in Article 151, paragraph 4, proposing the establishment of a system of compensation because the proposal is discriminatory, vague and open-ended concerning the nature and scope of the market effects which should justify the establishment of such a mechanism. In our opinion, the proposal for establishing a compensatory financing mechanism should take into account the applicability of existing international systems of compensation relating to export earnings instability.

ANNEX III, ARTICLE 10, PARAGRAPH 3.f.

Finance

The Canadian delegation has reservations on the proposed text dealing with the repayment of interest-free loans. In our opinion, the repayment period should not exceed the economic life of the project financed with interest-free loans. We sincerely hope that the issue will be further discussed during the next session.

ANNEX III, ARTICLE 10, PARAGRAPH 3.a.

Finance

The Canadian delegation wishes to stress that revision of ICNT/ Rev.I should provide for the establishment of a schedule of financial contributions to the Enterprise. We strongly object to the concept that States Parties would provide the Enterprise with a yet-to-be-agreed-to amount of capital in one instalment, irrespective of its actual need for capital spending.

ANNEX III, Article 12, PARAGRAPH 4.d.

Legal status, immunities and privileges

The Canadian delegation objects to the text contained in Annex III, Article 12, paragraph 4.d., giving preferential status to the Enterprise similar to the status afforded to developing countries because the granting of the status is not subject to multilateral agreements, and is given to countries and not to companies.