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ATTACHED IS STATEMENT IN PLENARY BY AND J. ALAN BEESLEY  
APR 29/82 AT THIRD U.N. CONFERENCE ON LAW OF THE SEA ELEVENTH  
SESSION, NYORK.

BEESLEY

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THIRD U.N. CONFERENCE ON THE LAW OF THE SEA

ELEVENTH SESSION, NEW YORK

Statement in Plenary by Ambassador J. Alan Beesley

April 29, 1982

Mr. President,

The Canadian Delegation has relatively few observations to offer on the report of the President to the Conference (Document L 132 Add 1) since in general we can accept the proposals contained in it. The observations which follow are therefore directed to offering suggestions which might further improve the prospects for consensus.

Participation and Signature by Observers

The Canadian Delegation has no objections to the proposed modifications to Annex I and Draft Resolution 4 concerning national liberation movements.

Preparatory Investment - Pioneer Activities

Mr. President, there is no more significant and far-reaching concept to have emerged from this Conference than that reflected in Draft Resolution 2 governing preparatory investment in pioneer activities relating to polymetallic nodules. At the time when we had reached consensus in Geneva on the draft Convention we had agreed to consider this question but I doubt if many delegations understood its ramifications as they have developed during the negotiations at this session. To put it simply and bluntly, all of those major industrialized states which had been sharply critical of the Convention should now review their conclusions in the light of the resolution on PIP which goes so very far in meeting their demands.

As I pointed out some weeks ago in informal negotiations, we have moved from the concept of protection of investments first raised by the USA nearly two years ago to agreeing to the allocation of actual minesites with defined limits. We have gone even further and ensured that the states and private entities qualifying as pioneer investors will be assured of approval of plans of work if they comply with the terms of the resolution and the Convention. They will moreover be assured of priority in applications for production authorization. In other words, the concerns of the major industrialized states both of the West and the Socialist group concerning the first generation of minesites have been met by this resolution. Indeed, their concerns about the second generation of minesites are also met in large measure. I urge therefore that every delegation and every government of a major

industrialized state which has entertained reservations about Part XI of the Draft Convention should now completely re-evaluate their position in the light of this resolution.

In my Plenary statement of April 16 I pointed out that all of the changes in the Draft Convention which are being demanded constitute unilateral concessions from the Group of 77 which may be made in the hope and even the expectation but by no means a certainty, that all of the major industrialized states will become parties to the Convention. No concession by the Group of 77 as a whole and no range of concessions demanded or given is greater than those reflected in the PIP proposal.

As I pointed out also in informal negotiations, Canada is a beneficiary of PIP since two Canadian companies are participating in consortia conducting exploration and development of technology in the Area. Canada did not, however, demand the protection of PIP. Moreover, Canada did not pass unilateral legislation to protect its interests as a seabed miner. It follows that Canada has not participated in the negotiations for a mini-treaty conducted by those states which have passed unilateral legislation, a group which we understand now includes another state which has just passed unilateral legislation and has asked to be involved in the mini-treaty negotiations. Nevertheless Canada, like many other states concerned to produce a universal convention, has agreed to PIP as the price to be paid by the Group of 77 - not Canada - for a Convention. It must be recognized by all concerned that the price is high. Nevertheless if the terms of the PIP resolution are acceptable, then we should be justified in concluding that we have vastly improved the prospects of a universal treaty through the negotiations of the PIP resolution.

Mr. President, on the other side of the coin, it must be acknowledged by Canada as a land-based producer, that the demands to eliminate the nickel production formula or to modify it to the point of emasculation have been dropped. Since we have always regarded the nickel production formula as a safeguard for the Enterprise and the common heritage as a whole and not merely the land-based producers, we think it only fair to acknowledge the importance of the retention of the formula. This fact should therefore be taken into account not merely by land-based producers but I suggest by the Group of 77 since it was one of the provisions which they considered to be fundamental.

⊗ USSR

Annex III - Developing Land-Based Producers

The Canadian Delegation strongly supports the proposed amendments to introduce a new paragraph 8 (bis) in Draft Resolution 1. The most seriously affected among the developing land-based countries who will be damaged by the onset of seabed mining deserves special attention and it is therefore appropriate that a special commission be set up to undertake studies and recommend measures that will contribute towards alleviating their economic adjustment problems.

For many years the Canadian Delegation has pointed out that the major consumers of the minerals known to be contained in manganese nodules (nickel, copper, manganese and cobalt) will become the major seabed miners of these same minerals. The provisions of PIP in particular make clear that the countries consuming 80 - 90% of these minerals will become their own producers with a view to becoming self-sufficient. Quite clearly this will have implications for the markets available to the Enterprise and to land-based producers. If we take into account also the possibility of various forms of subsidization of deep seabed mining by both state and private entities, then there is no further justification needed for the retention of the nickel production formula, which would give only a limited measure of protection to land-based producers and by the addition of a floor can afford an advantage to deep-seabed miners, and would give any such protection only for a limited phase-in period. As we have pointed out, the Convention would now contain such provisions.

It is the considered view of the Canadian Delegation that the Convention and the resolutions, in particular the PIP resolution, taken together, constitute a fair deal.

I wish to comment on only one special point concerning the resolution. The USSR alleges that PIP is discriminatory because the USSR must sign the Convention in order to be certified as a pioneer state, whereas some Western states need not do so provided that one state actively controlling a national or juridical person involved in a seabed mining consortium qualifies as a certifying state. The Canadian Delegation has difficulty accepting this interpretation by the USSR. In paragraph 1(a)(i) of the resolution France, Japan, India and the USSR are all treated in identical fashion. Wherein lies the discrimination? Developed and developing countries are treated alike. Western, capitalist and socialist states are treated alike. There is no discrimination whatsoever.