

A major contentious issue related to the application of the dispute settlement procedures to the exercise by the coastal state of its sovereign rights over the living resources in the exclusive economic zone. Article 17 of Part IV of the RSNT provided for dispute settlement where the coastal state had "manifestly failed" to comply with specified conditions in the Convention relating to the exercise of its rights with respect to living resources. This provision was not acceptable to the majority of the coastal state group who argued for its deletion on the grounds that it would represent a derogation from the general concept of coastal state sovereign rights over the living resources within the exclusive economic zone. In response to this view ICNT Article 296 now provides that no dispute relating to the interpretation or application of the Convention with regard to living resources shall be brought before the Tribunal unless certain specific obligations with respect to the conservation and utilization of living resources have been breached by the coastal state and subject to the general qualification that in no case shall the exercise of discretion with respect to determining the total allowable catch or the extent of surplus in the exclusive economic zone be called into question. Nor shall the court or tribunal substitute its discretion for that of the coastal state in regard to living resources. An additional proviso stipulates that in no case shall the sovereign rights of a coastal state be called into question. The foregoing would appear to provide a high degree of protection to the coastal state; further study will be given to these provisions to ensure that coastal state jurisdiction with respect to fisheries will be protected and that coastal state discretion within the 200-mile zone will not be called into question.

Apart from the foregoing, discussion in Plenary indicated that the broad outlines of Part IV of the RSNT were generally acceptable to most states. There appeared to be a broad degree of consensus for the alternative procedures which have been included in Article 287 of the ICNT, giving states parties the option of choosing between the Law of the Sea Tribunal, the International Court of Justice, an arbitral tribunal in accordance with Annex VI or a special arbitral tribunal in accordance with Annex VII, with the designation of the general arbitral tribunal as the residual choice of procedure in the absence of an alternative choice. Some difficulties