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Text of Statement to be made by the Canadian Representative, Dr. D. G. Crosby, in the Economic and Technical Sub-Committee of the Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction on Friday, March 13, 1970

The Canadian delegation believes there is general agreement that the first and principle objective to be served by the international regime for the seabed beyond the limits of national jurisdiction must be to ensure that resources which form part of the common wealth of mankind are developed and utilized for the common good of mankind. The test against which we must measure our efforts and progress in the Seabed Committee is whether or not we are achieving this basic objective, from which should flow the detailed propositions for the regime and the machinery to implement it.

The Secretariat's paper, "Government Measures Pertaining to the Development of Mineral Resources on the Continental Shelf", A/AC.138/21, represents an impressive achievement in terms of research, compilation and analysis. I am pleased to note in particular the contribution made to this work by Mr. I. W. Morley of Brisbane, Australia, whose acquaintance I have been privileged to make at meetings in both Canada and Australia over the past several years. This document can serve as a useful reference for our considerations regarding the nature of the resource management system to eventually evolve from our studies here.

My delegation agrees that we must come to grips with the specific items or topics that will form the basis for the regulatory provisions necessary to govern the development and utilization of seabed resources beyond the limits of national jurisdiction. As my delegation stated in this Sub-Committee last March, the international regime that is eventually designed for the administration and management of these resources will have to meet certain basic requirements in order to encourage the exploitation of the resources in this difficult and alien environment. Aside from the prospect of finding valuable mineral deposits and producing these in the context of world supply and marketing conditions, the single most important

factor in promoting resource exploitation in these areas will be the provision of a system of resource management designed to encourage and maintain investment on a continuing and orderly basis. The large amounts of investment capital needed simply will not be forthcoming without assurance of an impartial and enlightened regulatory and administrative climate within which to operate.

The distinguished representative of the United States has listed 20 items in his interesting and useful presentation on Tuesday, March 10. Although my delegation might have organized these 20 items in a somewhat different fashion, and would probably have grouped them to a greater extent, this in no way detracts from the fact that the list represents a comprehensive cross-section of resource management topics. I might mention here that my delegation sees no real need to design a number of regimes based upon differences in technological or other factors. It is readily apparent that the manner in which items such as these should apply in detail will depend upon a wide variety of factors - the minerals or suites of minerals involved, their modes of occurrence, the methods of extraction, and so on. We feel it should be possible, and we feel it would be preferable, to design an overall regime broad and flexible enough to have the capability of dealing appropriately with all such factors.

As we see it, there are two main fields of interest that must be considered: first, the arrangements by which rights to the subject resources would be made available to operators and the terms and conditions that operators must fulfil; and secondly, the manner in which exploration and exploitation operations would be supervised and controlled.

The first of these fields involves the regulation and issuance of whatever types of terminable grants or forms of tenure are designed, 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 of rights to these resources. It is basic, for example, that there be some manner of ensuring title. This must not only work effectively, it must at the same time be designed so as not to specially favour any particular national interest. Among the first 13 items listed by the distinguished representative of the United States are many of the matters that would be included here, and I believe his items 17 and 18 would probably fit here as well.

In this context, a number of references have been made in the Sub-Committee to the Canadian system of resource management in the offshore, and I have been asked a number of questions personally about it. Although I do not wish to appear to be in any way advancing the Canadian system as a possible working model above any of the other various national resource management systems now in effect throughout the world, I feel obligated to bring out some of the main points of the Canadian system in view of the interest shown. It is obvious that in detail no single national system can

be considered as fulfilling all the requirements necessary for a suitable international regime, and I will, therefore, restrict my comments to basic components of the Canadian system dealing with offshore oil and gas rights that would appear to have some relevance.

At the outset, 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. One of my friends refers to it quite aptly 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 1,000 feet deep. The concept here is to encourage work throughout the Canadian offshore by granting exploration rights on a non-exclusive basis for a nominal fee.

The second entity in the Canadian system is the exploratory permit, which, in contrast to an exploratory license, involves a specific area. This area is defined by lines of longitude and latitude so that it can be readily located and described. 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 that are deeper than 1,000 feet. I should mention here as an aside that all parties must submit notices including detailed descriptions of all proposed offshore programmes, including each and every proposed well, and that all proposed programmes 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. 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 six years with six renewals each 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 geophysical work, through more expensive geophysical surveys, to high cost drilling operations.

The third entity 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.

It will be noted that the Canadian system does not utilize a method of issuing rights based upon discretionary authority vested in the administering body. We do not have a system whereby nominations or applications are invited and the most attractive of these is selected by the administering authority, although I understand that systems of this nature are successfully utilized elsewhere in the world. The duties of administration and management at the national level involve of necessity many discretionary decisions on the part of administrators, and I know that I personally am happy indeed to have distinct guidelines wherever possible in exercising the considerable responsibilities with which myself and my colleagues in Canada are charged. 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. I believe it would be wise to attempt to design the international regime so that the administering authority will be able to operate in the most objective fashion possible, without the added complication of 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.

I might confirm here that the Canadian system has been found quite successful in stimulating exploration in Canada's offshore areas, which are pioneer areas in the truest sense. No commercial production has been found anywhere in the Canadian offshore as yet. Canadian oil and gas permits have been issued off the east coast extending in an unbroken stretch of some 2,000 miles along the coast from the Gulf of Maine region through the Grand Banks and thence to Hudson Strait. These permits extend seaward more than 400 miles east from Newfoundland. Permits have been issued along the west coast over a stretch of 500 miles from the Strait of Juan de Fuca region to the Dixon Entrance region, and these permits extend seaward somewhat less than 100 miles. In the Arctic region, approximately 150 million acres of oil and gas permits have been issued in the Arctic offshore. These are situated in the Beaufort Sea region, where they extend as far seaward as 140 miles off the mainland coast, and in the Arctic Islands region, where they cover most of the channels between the various islands.

Altogether, some 540 million acres, approximately 850 thousand square miles, are now held under Canadian offshore oil and gas permits. This represents more than half of Canada's entire submerged continental margin, which comprises some 1.5 million square miles. These permits have been issued in water depths ranging to 2,200 metres (about 7,000 feet) in the Gulf of Maine region, to 3,700 metres (about 12,000 feet) in the Scotian Shelf region, to 2,800 metres (about 9,000 feet) in the Grand Banks region, to 2,100 metres (about 6,800 feet) in the Labrador Sea region, and to 2,600 metres (about 8,500 feet) in the Beaufort Sea region. Geophysical surveys have been carried out in all these regions, commonly in water depths of several hundreds of feet, in places several thousands of feet, and exploratory drilling programmes have been or are being carried out off the

west coast, off the east coast, and in the Hudson Bay and Hudson Strait regions.

We of the Canadian delegation are equally concerned with the second general field of interest that I mentioned previously, the operational field, involving 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 operational aspects. The items numbered 14 to 16 in the March 10 presentation by the distinguished representative of the United States, as well as item 19, would probably fall within this field. There is in item 14 a point of particular concern to my delegation, the prevention of pollution.

Pollution is a complex subject in itself and certainly one basic to the future wellbeing of all mankind. Already there has been too great a tendency to misuse that great heritage of mankind comprising the atmosphere, the land, and our inland water resources. We are now concerned with protecting our last frontier, our seas and oceans. 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 prevent pollution from mineral resource activities not only as regards conservation of the living resources of the sea, the water itself must be protected from pollution. The ocean environment must be preserved in the interests of the multitude of people who use it and depend upon it.

There has been a tremendous advance in the field of offshore technology over recent years, due primarily to the impetus of offshore petroleum exploration. Already with recent developments in offshore drilling equipment it is possible to explore the potential of all reaches of the continental shelf. It is difficult to visualize at this point in time just what the future, even the relatively near future, will bring in the way of offshore developments. 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 programmes; 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 programme 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.

The Canadian delegation is in agreement with others that scientific research should be encouraged in every way possible. However, we would wonder if it would be possible to draw a distinct line in all cases between an activity ostensibly carried out for scientific purposes and one of a similar nature deemed to be a commercial enterprise. Moreover, it would be little consolation after the activity has given rise to pollution to recall that it was carried out as scientific research. Prevention is the keystone of pollution abatement, and this is especially true with respect to the vulnerable multi-resource ocean environment. It would seem logical to apply similar operational requirements to scientific research programmes having a potential for causing pollution as would be applied to commercial research programmes with a similar potential. At the national level, for example, a drilling programme would not be allowed to proceed on Canada's continental margin, whether it be with scientific or commercial intent, without assurance that adequate pollution control equipment and procedures were to be utilized.

We have in many parts of the world now reached a stage on land where in the relatively near future, according to some eminent scientists, we may actually reach the irreversible stage as regards the pollution of our environment. Let us not make the same mistake with respect to the even more vulnerable environment of our seas and oceans.

In conclusion, I would like to emphasize the extreme complexity of the subject with which we are dealing. We are at this stage having difficulty reaching agreement even as regards the type of specific matters we should be discussing. We are even encountering difficulty to some extent in reaching agreement as regards the objectives of the regime we are trying to design. Yet this is only a beginning; we have still to become concerned with the type of treaty or convention necessary to establish the regime and what should be included within it; we have still to become conerned with all the complexities inherent in drafting regulations in accordance with this treaty or convention; and, we have yet to really become concerned about the extent and types of discretionary powers with which we wish to endow the international authority that will have to design the administrative policies and procedures by which these regulations are implemented. This is an awesome task, and I believe it bears repeating that we must soon be prepared to come to grips with the specific items involved.