

## NOTES FOR A CANADIAN STATEMENT

Special Commission 3  
New York, August 1989

Let me begin by joining my voice to those of others who have expressed their appreciation at seeing you once again in the Chair, presiding over our deliberations in Special Commission 3.

It is well known that in your work in Special Commission 3, you have demonstrated a patience and ability to listen to the concerns of all parties. You have worked yourself and others hard. Moreover, in public statements outside of the Preparatory Commission, it is clear that you have given a great deal of thought as to how we can best carry forward the work of Special Commission 3 so that the most complete, most thoroughly explored, most carefully documented and, perhaps, the most politically advanced in terms of consensus building, draft rules and regulations for the Seabed Mining Code can be handed over to the Authority.

Mr. Chairman, the Canadian Delegation very much appreciates your efforts and will do all it can to help ensure that they are rewarded as they deserve.

Mr. Chairman, we are now beginning our examination of the draft articles which are to govern the calculation and granting of Production Authorizations. This would seem to be a straightforward task since Article 151, albeit complicated in places, is quite detailed, as are Annex III, Article 7 and Resolution II, when they speak of Production Authorizations. The draft regulations contained in the Secretariat's working paper WP 6/Add.1 reflect this. I would not be surprised, however, were some delegations to seek clarifications of principle or detail, and if it emerges that there are ambiguities which have to be cleared up. We look forward to participating in that process.

At this early point in the debate, Mr. Chairman, it might be useful for my Delegation to explain its view of the Production Control Formula and the role of the Production Authorizations.

Canada is a large, well-known, well-established and cost efficient miner, refiner and, to a lesser extent, consumer of nickel, the metal of chief value expected to be recovered from the deep seabed. This, of course, explains our interest in deep seabed mining. I am convinced, however, that concern for our national economic interest has not distorted our understanding of the world nickel economy. On the contrary, I believe that, because of our experience and knowledge, Canada is well placed to examine and understand the consequences of unrestricted or subsidized seabed production for the economies of producers and consumers of nickel, copper, cobalt and perhaps manganese.

You will note that I have mentioned "unrestricted production" and "subsidized production". Let me deal first with subsidized production. You have been informed by the distinguished representative of Australia, Mr. Chairman, of that Delegation's intention to raise this issue in your

Commission at some time in the future. Already, and with the strongest possible support from my Delegation, Australia has introduced into Special Commission 1 a draft recommendation which, consistent with the mandate of that Commission, seeks "approval in principle" of measures which would restrict the likelihood of deep seabed production being subsidized. As already signalled by Australia, it would be for this Commission to try to give effect to this draft recommendation.

Most delegates will be aware of the arguments put forward by Australia and Canada in Special Commission 1 in support of the draft recommendation. I would note here that whether the commodity is cocoa or steel, rice or tin, milk or coal, the consequences of subsidized production are almost inevitably bad.

As short-term social or political needs prevent needed structural adjustment, producers with comparative advantage will be penalized and, in the longer run, all consumers and producers (and particularly those least able to compete in the subsidy game) will suffer the consequences. This is recognized at the highest political levels and preoccupies many bilateral relationships and multilateral organizations. This is why my Delegation hopes, Mr. Chairman, that the draft resolution concerning subsidized production from the deep seabed will be accepted by consensus in Special Commission 1. On the other hand, it is true that rules and regulations to bring some discipline to the ability of governments to subsidize production from the deep seabed will pose difficult ideological and methodological problems which we will have to tackle here in Special Commission 3. My delegation looks forward to the challenge.

The other half of our concerns relates to unrestricted production from the deep seabed, something that was prominent in the minds of the drafters of the Convention. It was in this context that the Production Control Formula was conceived and developed.

The Canadian Delegation regards the mining of the deep seabed as inevitable. It will happen. When the day does arrive, it will have an impact on all nickel, copper, cobalt and manganese producers. It will affect investment plans, employment patterns, the location of processing facilities, and the relative importance of various nation states in the production of these minerals. There is nothing wrong with this; it is to be expected. It is a form of structural adjustment and it is present in every part of every economy.

Those governments - including that of Canada - which accept the Production Control Formula do so not to prevent structural adjustment but to ensure that it occurs in a measured way, and in a way calculated to phase-in a major new source of important industrial raw materials. The inevitable dislocations will occur and, I would suggest, may indeed be healthy up to a point, as national and world economies adjust to new and, we would insist, financially viable sources of production.

But let me be absolutely clear: unrestricted access to the deep seabed and the potential for unrestricted production from the deep seabed open us to the possibility of a ruinous and inefficient boom-and-bust cycle. An undisciplined rush to the deep seabed suggests, as we look to historical

precedents in other commodities, a production boom with increasing price instability in both directions. And price instability, as our economic experts tell us, is not in the interests of producers or consumers.

It is in this context that the Production Control Formula can be seen as a kind of gate through which, for the first 20 years of production from the deep seabed, the first and subsequent applicants must pass. A number of comments are appropriate here.

Distinguished delegates might be surprised to learn that Canada considers the Production Control Formula and the Production Authorization allocation process to be a weak instrument for the realization of goals mutually advantageous to consumers and producers. As I have already suggested, it is incomplete because it does not in any way address the serious question of production subsidies. There are more direct observations to be made, however.

The Production Control Formula is limited in duration: 25 years after the first application, approximately 20 years after first production. This sounds like a long time, and it is. But it is not forever. To provide a context for distinguished delegates, remember that it has already been seven years since the signing of the Convention, 19 years since the deep seabed was declared to be the "common heritage of mankind", and 31 years since the first United Nations Conference on the Law of the Sea.

The Production Control Formula effectively regulates only the entry into production. It is true to say that Article 151, paragraph 5 sets limits on the amounts that can be produced: 38,000 tonnes being the mean with variances of 8% or 20% under certain conditions, and an absolute limit of 46,500 tonnes being possible under any one Production Authorization. While commendably detailed and exact as these figures are, it is debatable whether they are enforceable or if they should be rigid. For example, technological breakthroughs or increases in efficiency as experience is gained may mean that recoveries could increase through the life of a mine or a processing facility. In such a situation, Mr. Chairman, I cannot imagine the Legal and Technical Commission deciding to penalize such gains in efficiency by denying the Production Authorization holder an increase in the amount of nickel recoverable per year per minesite. Such artificial restraints would penalize deep seabed mining and give land-based production an unfair advantage. Just as we argue against subsidized production from the deep seabed, we will urge that future consideration of variances from approved production levels be approached in the most flexible way possible. Nonetheless, because we believe that such an approach is inevitable, you will understand, Mr. Chairman, why we consider the the Production Authorization system is more effective in controlling entry into deep seabed mining than it is in controlling production levels from deep seabed mines.

When we speak of "phasing-in" production from the deep seabed, there is at least the potential for some requests for Production Authorizations to have to wait in a queue until the Production Control Formula produces an adequate number of Authorizations to accommodate all of the applicants. That this potential exists is not a priori evidence that the Production Control Formula does not work. It is not in anyone's long-term interest that Production Authorizations be handed out to every applicant that satisfies

the other criteria but without reference to the Production Control Formula. It is pertinent to note here that we are talking only of "when" Production Authorizations are made available to every qualified applicant, not "whether" they will be made available.

I would also note that each Production Authorization represents at least 38,000 tonnes of nickel for an expected 20 year life of a mine. Let me put this in context. Each Production Authorization will represent about 4% of total annual world production of nickel from sulphide and lateritic ores. This will be a very large mine by world standards. One deep seabed mine would provide the total current annual consumption of nickel by France. Five deep seabed mine sites would be roughly equivalent to the total annual production of nickel in Canada or the U.S.S.R., which are by far the largest nickel producers in the world. No one can predict with certainty, Mr. Chairman, what the Production Control Formula will yield in the way of Production Authorizations in say, the year 2005, but I would suggest that 5 in the first year would not be impossible. That would be, Mr. Chairman, the equivalent of another Canada added to total world nickel production. This would be a great deal of nickel and, I would add, copper and cobalt, and hardly evidence that the Production Control Formula is a restrictive and market distorting mechanism. Indeed, it may be that the Production Control Formula at certain times might be more generous than rational investment and production plans would require.

Mr. Chairman, the Production Control Formula says nothing about subsidized production; it is limited in time; it will be more effective in controlling entry than in controlling actual production; and it could be more generous than the market would warrant. Nonetheless Canada accepts and will support the system of Production Authorizations based on the Production Control Formula. Together they constitute a modest check-point which hopefully will encourage those about to invest immense amounts of capital to consider whether the markets can absorb the production from their deep seabed mine sites while still providing them with a return sufficient to meet their financial obligations to the Authority and to justify their investments.

Imperfect as it is, Mr. Chairman, the system of Production Authorizations based on the Production Control Formula is all we have.

Thank you, Mr. Chairman.