

DOCUMENT A/CONF.62/L.105

Japan: amendments to draft resolution II*

[Original: English]
[13 April 1982]

Paragraph 1 (a): amend to read as follows:

"(a) 'pioneer investor' means a State Signatory of the Convention or any State entity or natural or juridical person which possesses the nationality of such State or is effectively controlled by it or its nationals, or any group of the foregoing which, prior to 1 January 1983, or, relative to a developing State 1 January 1985, has expended at least \$US 30 million (United States dollars calculated in constant dollars relative to 1982) in pioneer activities and has spent no less than 10 per cent of that amount in the location, surveying and evaluation of a specific portion of the Area. No entity may be divided into two or more entities during the period of eight months prior to 1 January 1983."

Paragraph 1. (e): at the end of the subparagraph replace "150,000" by "60,000".

* These amendments refer to the text contained in document A/CONF.62/L.94.

DOCUMENT A/CONF.62/L.106

France: amendments

[Original: French]
[13 April 1982]

In the view of the French delegation, setting 13 April as the deadline for the submission of amendments to the draft convention and to documents A/CONF.62/L.93 and L.94 has made it impossible to continue negotiations before specific texts have the effect of freezing positions or calling in question elements that had been established.

For this reason, and in order to meet any eventuality, the French delegation is submitting, within the prescribed time-limit, the attached amendments. It has also co-sponsored a number of other texts.

In so doing, it is in no way abandoning attempts, through negotiation, to arrive by consensus and in accordance with the traditional procedure of the Conference at other formulae that would take into account the concerns to which the amendments submitted herewith are addressed.

Article 60, paragraph 3: replace the second sentence by the following:

"(a) Any installations or structures which are abandoned or disused shall be removed in order to ensure the safety of navigation and to take into account fishing, the protection of the marine environment and the rights and duties of other States. Accordingly, such installations and structures shall:

- "(i) Be entirely removed if the sea-bed on which they rest is at a depth of 60 metres or less;
- "(ii) Be dismantled in such a way that structures not entirely removed do not exceed a height of 10 metres above the sea-bed, if the latter is at a depth of between 60 and 510 metres;
- "(iii) Be dismantled from the surface to a depth of 500 metres if the sea-bed on which they rest is at a depth of more than 510 metres.

"(b) The marking of installations and structures shall be maintained until completion of the work of dismantlement of which adequate advance notice shall be given. The position, depth and dimensions of any installation or structure which has not been entirely removed shall be indicated by the coastal State on charts on the appropriate scale, to which due publicity shall be given and a copy of which shall

be deposited with the international organization competent to ensure the implementation of the provisions of this paragraph."

Article 230: amend the title to read as follows: "Penalties occurred and the observance of recognized rights of the accused".

Article 230, paragraph 1: at the end of the paragraph add the following: "except in the case of a wilful or serious act of pollution."

Article 230, paragraph 2: amend to read as follows:

"Monetary penalties only ... except in the case of a wilful or serious act of pollution in the territorial sea."

ANNEX III

Article 6, paragraph 3 (c), (i) and (ii):

"(c) the proposed plan of work has been submitted or sponsored by a State Party which already holds:

- "(i) plans of work for exploration and exploitation of polymetallic nodules in reserved sites and non-reserved sites that, together with either part of the area covered by the proposed plan of work, would exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed plan of work;
- "(ii) plans of work for the exploration and exploitation of polymetallic nodules in reserved sites and non-reserved sites which in aggregate size constitute 2 per cent of the total sea-bed area which is not reserved or otherwise withdrawn by the Authority from eligibility for exploitation pursuant to article 162, paragraph 2 (w), of this Convention."

Article 6, paragraph 4: after the first sentence add the following:

"If the applicant is sponsored both by the State Party of which it is a national and by the State Party which effectively controls it the plan of work shall be counted between the two States."

Article 7, paragraph 5: replace paragraph 5 by the following:

"5. Selection shall be made taking into account the need to enhance opportunities for all States Parties, irrespective of their social and economic systems or geographical locations, to participate in activities in the Area and to prevent monopolization of such activities. To that end, an application sponsored by one or more States Parties none of which yet possesses an approved plan of work shall be given priority over an application sponsored by one or more States Parties of which at least one already possesses two or more. The concept of a plan of work possessed by a State Party shall be that defined in article 6, paragraph 4."

Draft resolution II,* paragraph 1 (a): replace by the following:

"(a) 'pioneer investor' means:

*The amendment relates to the text contained in document A/CONF.62/L.94.

"(i) an entity or natural or juridical person which possesses the nationality of a State signatory of the Convention; or

"(ii) a group of entities or of natural and juridical persons coming within the competence of a State signatory of the Convention; or

"(iii) a State signatory of the Convention,

which, prior to 1 January 1982, has invested at least \$US 30 million (United States dollars calculated in constant dollars relative to 1981) in research and development activities for the exploitation of polymetallic nodules, no less than 10 per cent of that amount being spent in the delimitation, surveying and evaluation of the site covered by an application submitted in accordance with paragraph 3 below. If the pioneer investor is a group, no component of that group can claim the title of pioneer investor for its own account."

DOCUMENT A/CONF.62/L.107

Zaire: amendments

[Original: French]
[13 April 1982]

The proposed amendments to articles 62, 69, 71 and 79 are intended to harmonize and clarify the terminology with a view to facilitating interpretation.

Article 62: the term "surplus" used in that article is misleading, and should be amended and amplified to read as follows:

Article 62, paragraph 2: amended to read as follows:

"2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall conclude agreements or other arrangements with other States, pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, with a view to enabling those States to harvest the available catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein. Should the State not reach its harvesting capacity, the other States referred to in article 62, paragraph 2, shall be entitled to have access to the part not effectively harvested by the coastal State."

Article 62, paragraph 3: replace "surplus" by "available catch".

Article 69, paragraph 3, and article 70, paragraph 4: these paragraphs are confusing and conflict with article 62, paragraph 2. For the sake of clarity these paragraphs, the wording of which is the same, might be amended by inserting the following:

"Pursuant to article 62, paragraph 2, the coastal State and other States concerned shall co-operate with a view to concluding . . ."

Article 71: delete this article which is superfluous and duplicates the content of articles 62, 69 and 70.

Article 75: a new article 75 (*bis*) should be added, to read as follows:

Article 75 *bis*, paragraphs 1 and 2:

"1. For the determination of the technical norms provided for in this Part, the States concerned may have recourse to competent international bodies

"2. With a view to the settlement of disputes concerning the application of this Part, the States concerned shall utilize a conciliation commission."

Article 151: specific measures should be envisaged for cobalt and manganese. Article 151, paragraph 2 (*f*), provides a solution to that end. Under article 151, paragraph 2 (*f*), as it stands quantities of metals other than nickel extracted from nodules may be lower than the quantities that would be extracted were the ceiling established for nickel applied. Accordingly, the Authority should have a discretionary power with regard to these metals, bearing in mind supply, price levels and world market demand. Consequently paragraph 2 (*f*) should be clarified and amplified as follows:

"(*f*) The levels of production of other metals such as copper, cobalt and manganese extracted from the nodules that are recovered pursuant to a production authorization should not be higher than those that would have been produced had the operator produced the maximum level of nickel from those nodules pursuant to this paragraph. Nevertheless, the Authority may limit the production of these metals to levels lower than those that would have been attained if the operator had extracted from these nodules the maximum quantity of nickel, as calculated pursuant to this paragraph. The Authority shall establish rules and regulations pursuant to annex III, article 17, to implement the provisions of this subparagraph."