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Statement made by the Japanese delegation to the Assembly at its ninth session

Submitted by the delegation of Japan

1. The Assembly has just endorsed the recommendations and decisions of the Finance Committee with regard to the modalities of funding the participation of members of the Legal and Technical Commission and the Finance Committee from developing countries.

2. Paragraph 4 of the decision of the Finance Committee reads as follows:

“To supplement the voluntary contributions, the Secretary-General, for the first year of operation of the voluntary trust fund, is authorized to advance, to the extent necessary, up to \$75,000 from such extraordinary sources of funding as may be under the custody of the Secretary-General and accrued to the Authority, on the understanding that that authorization is made on an exceptional, one-time basis and is without prejudice to any future recourse to the general administrative fund that may arise from the determination of definitive sources of financing requested in paragraph 7 below. The Secretary-General is requested to report to the Committee at its next meeting on the advances made in a consolidated manner for eventual appropriation.”

3. The Japanese delegation recommends the following:

“To accept this recommendation as a one-time operation only which will expire in 2004. Once the final source of financing is identified, the amount committed and advances shall be reimbursed to extraordinary sources of funding under the custody of the Secretary-General.”

4. As regards the determination of the definitive source of financing for supplementing the voluntary funds for the participation of the Legal and Technical Commission and the Finance Committee, the Japanese delegation finds it improper to use for such a purpose both the principal and the interest accruing from the special trust fund under the provisions of paragraph 7 (a) of resolution II of the Final Act of the Third United Nations Conference on the Law of the Sea, for the following reasons:

(a) The trust fund, which was originally established in the United Nations in 1997 under the name “Special Account for the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea for Pioneer Investors’ Application Fees”, was governed by the financial regulations and the administrative instructions of the United Nations Secretary-General on the establishment and management of trust funds (ST/SGB/188, 1 March 1982). The financial regulations and the instructions prohibit the use of the trust fund for other purposes than the purposes of the trust fund specified in the terms of reference of the fund (para. 46 of the instructions) and any balance of the fund shall be refunded to the original contributors.

(b) Any income and accruing interest to the trust fund shall be credited to the fund (para. 38 of the administrative instructions).

(c) The application fees will be utilized, as provided under article 13, paragraph 2 of annex III to the United Nations Convention on the Law of the Sea, to cover the cost incurred in relation to the registration of pioneer investors. Article 13 provides that “the amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant”.

(d) We believe that the cost of travel expenses should be considered as expenses of the Authority and be defrayed from the savings of the regular administrative budget in view of the following considerations:

- (i) The Legal and Technical Commission and the Finance Committee discharge essential functions that are prerequisites for the decision-making of the International Seabed Authority, drawing upon the personal qualifications and expertise of their members;
- (ii) There is a need to enhance the participation of all members of the Commission and the Committee, without which the Authority would not be able to gather the necessary knowledge and experience in a balanced way.

5. Finally, the Japanese delegation firmly requests the Secretary-General to provide the Finance Committee with relevant documents and his proposals for the management of the special trust fund under the provisions of paragraph 7 (a) of resolution II of the Final Act of the Third United Nations Conference on the Law of the Sea, together with the applicable financial regulations and rules governing the management of the fund.
