

New York, August 22, 1978

Opening Statement in NG 1
by the Federal Republic of Germany
on behalf on the Members States of the EEC

United Nations Conference on the Law of the Sea

Delivered by Mr. Wolff, August 24, 1978

Mr. Chairman,

Since my government at presents holds the presidency of the Council of the European Economic Community I have the honour to speak on behalf of the nine Members States.

Mr. Chairman, we hope that our discussions over the next four weeks will prove fruitful and will lead us closer to a consensus. Our delegations certainly intend to play a positive and constructive part in these negotiations. Earlier this session, we took the initiative in launching a proposal on the Enterprise's access to technology and we shall continue to make constructive proposals whenever we see the opportunity to do so.

Some progress was made in Geneva, and our task is to build on this. When we adjourned, however, negotiations in NG 1 had not reached the stage where it could be said that there was consensus. This is understandable. We had come, however, to grips with some of the most difficult questions before this Conference in a good atmosphere.

.../...

The Nine find themselves in complete agreement with President Amerasinghe's Statement (in his memorandum of June 30, 1978, para 8) that "during the resumed session further negotiations on the revised formula should be undertaken".

The Nine feel that the texts contained in NG 1/10 Rev. 1 only reflect a stage in the negotiations and that further negotiations are needed before the texts could be included in a revised ICNT. Time was limited in Geneva, and thus we find ourselves only in the middle of negotiations on a number of key issues. The nine delegations for whom I have the privilege to speak therefore suggest that we take up the discussion of these issues where we left them in Geneva.

Mr. Chairman, I should like to indicate some of these outstanding problems :

1. Resource policy - Art. 150

As you know we have considerable problems with Art. 150. As it stands Art. 150 might give the impression that the Authority could somehow use sea bed minerals to control world prices and regulate world supply of raw materials. This is not acceptable.

2. Production ceiling - Art. 150 bis

The limitation of production gives us very great difficulties and we can not accept the formula set out in NG 1/10 Rev. 1. We do not believe that limitation of

deep sea mining will benefit the overwhelming majority of developing countries, which are, of course, consumers.

Any suggestion in this respect has to be judged on its merits for the development of deep sea mining in the interest of mankind as a whole as well as the world economy.

3. Transfer of technology - Annex II

In Geneva the Nine made what they believed to be a major step forward towards setting up a financially and technologically stable and viable Enterprise. Unfortunately, our proposal has been altered in many respects, e.g.

- para 4 c) ii bis extends the commitment to transfer technology to subcontractors, although there will be no contractual arrangement between them and the Enterprise. This would lead to grave legal and practical difficulties.
- para 4 c) ii quinquies now provides for transfer of technology not only to the Enterprise but also to developing countries. Yet we were only prepared to make these very special arrangements for the unique case of the Enterprise in order to assist it to get off the ground.
- para 5 j) iv provides for binding arbitration. We need to consider the implication of this very carefully. In any event the paragraph must be clarified. Any

.../...

suggestion that the validity of the contract may depend on the transfer of technology is unacceptable for us.

4. The Review Conference - Art. 153

We had aimed at a provision which would help the Review Conference to come to an early conclusion without lengthy and fruitless negotiations. The latest text is not a real compromise, since it is not equitable and balanced, and fails to take account of the needs of the world economy. It does not longer treat both sides of the dual system equally. The continuing activity of the Enterprise would be assured, whereas a moratorium could be imposed on the State parties and private firms.

Mr. Chairman, I have touched upon some of the most important issues and I have spoken frankly on the topics which we, the Nine, would wish to discuss here and now. Yet, our overriding concern is to contribute to the success of the resumed seventh session. Therefore we would not oppose a discussion of other questions of part XI Annex II should the majority of the delegations prefer this approach. We do so, however, with the clear understanding that the texts in NG 1/10 Rev. 1 do not reflect a consensus. We shall therefore have to come back to them as soon as possible, hopefully during this session. In fact, we may well find that in going through Annex we are inevitably led back to some of the issues I have touched on today. The whole of these negotiations are closely interrelated.

Thank you, Mr. Chairman.