AN ISA SIDE ISSUE: LOS CONVENTION, ARTICLE 82 AND REVENUE SHARING PROFESSOR TED L. MCDORMAN, UNIVERSITY OF VICTORIA, CANADA

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Article 82

Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles

1. **The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.**

2. **The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.**

3. **A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.**

4. **The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.**

Canada’s “Mr Law of the Sea,” Ambassador Alan Beesley stated:

> “… one of the most highly controversial issues in the Law of the Sea Conference is just how far from shore coastal jurisdiction extends over the seabed. There is, we believe, a developing agreement … on the continental margin concept. But that is a battle still to be won and the price is undoubtedly revenue-sharing with respect to resources of continental shelf between 200 miles and the outer edge of the margin.”

The Board informs prospective bidders for these parcels, which are entirely or partially beyond Canada’s 200 nautical mile zone, that it has been advised by the Government of Canada that, in order to meet obligations arising pursuant to article 82 of the United Nations Convention on the Law of the Sea, additional terms and conditions may be applied through legislation, regulations, amendments to licences or otherwise.

Article 82

1. The coastal State shall make payments (1) or contributions in kind (2) in respect of the exploitation of the non-living <u>resources</u> <u>(3)</u> of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The *payments* and *contributions* shall be made <u>annually</u> (4) with respect to <u>all production</u> (5i) at a <u>site</u> (6) after the first five years of *production* at that *site*. For the sixth year, the rate of payment or contribution shall be 1 per cent of the <u>value</u> (7) or <u>volume</u> (5ii) of *production* at the *site*. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. *Production* does not include resources used in connection with exploitation.

<u>KEY WORDS</u>

The Big Four
Resources (3)
All production (5)
Site (6)
Value (7)

In my simple terms the *ISA Technical Study* asserts that what is to be determined as the basis of calculation of the 1-7 percent by the producing State is the <u>fair market value</u> of the total volume of production at the wellhead within a field (site), the latter as defined by the producing State.

4. **The payments or contributions shall be made <u>through</u> the Authority, w*hich shall distribute them* to States Parties to this Convention, on the basis of equitable sharing criteria,** …