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General Assembly

Sixty-second session

Official Records

65th plenary meeting
Monday, 10 December 2007, 3 p.m.
New York

President: Mr. Kerim . . . . . (The former Yugoslav Republic of Macedonia)

The meeting was called to order at 3.30 p.m.

Agenda item 18 (*continued*)

Question of Palestine

Draft resolutions A/62/L.18, A/62/L./19, A/62/L.20/Rev.1 and A/62/L.21/Rev.1

The President: Members will recall that the Assembly held a debate on this item at its 58th and 59th plenary meetings, on 29 and 30 November 2007.

I give the floor to the representative of Senegal to introduce the draft resolutions.

Mr. Badji (Senegal) (*spoke in French*): During my statement on 29 November, at the 58th meeting, on the occasion of the debate on agenda item 18, I described the context in which the question of Palestine developed. It is in that very same context – also emphasized by a large majority of Member States – that I wish to present to the Assembly here and now the four draft resolutions approved by the Committee on the Exercise of the Inalienable Rights of the Palestinian People: draft resolutions A/62/L.18, A/62/L./19, A/62/L.20/Rev.1 and A/62/L.21/Rev.1.

The first three draft resolutions (A/62/L.18, A/62/L.19 and A/62/L.20/Rev.1) relate to the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the Division for Palestinian Rights and the special information programme on the question of Palestine of the Department of Public Information. The important mandates granted to these bodies by the General Assembly are reaffirmed in these texts. As in the past, the Committee proposes to profitably make use of the resources made available to it to carry out all the planned activities in its annual programme. These three draft resolutions contain updated data.

Before going any further, I wish to take this opportunity to dispel certain misunderstandings concerning the mandate of the Committee. The positions of the Committee on the settlement of the Palestinian question are similar in many respects, if not identical, to those of the majority of the other groups of Member States, and the European Union in particular. As Permanent Representative of Senegal and the Chairman of the Committee, I have had many opportunities to discuss the role of the Committee with my colleagues from different regional groups.

For example, recently, under my direction, a delegation of the Committee held a series of discussions with the representatives of European institutions in Brussels. The fact is that the Committee has periodically held consultations with delegations from the European Union and the European Commission and their successive presidents since 1996. Throughout the years, it has appeared that the positions of the Committee and those of the member States of the European Union come together basically on a certain number of points.

I wish also to emphasize that the Committee has consistently supported the peace process in the Middle East, and especially since the Madrid Peace Conference of 1991, which launched the political

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The Assembly will now take a decision on the draft resolution, entitled “Capital master plan”. The Fifth Committee adopted the draft resolution without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 62/87).

The President: The Assembly has thus concluded this stage of its consideration of agenda item 128.

Agenda item 77 (*continued*)

Oceans and the law of the sea

(a) Oceans and the law of the sea

Report of the Secretary-General (A/62/66 and Add.1 and Add.2)

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its eighth meeting (A/62/169)

Draft resolution (A/62/L.27)

(b) Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Report of the Secretary-General (A/62/260)

Draft resolution (A/62/L.24)

Mr. Heller (Mexico) (*spoke in Spanish*): The delegation of Mexico wishes to begin by expressing its appreciation to the coordinators of the two draft resolutions, the United States and Brazil, for the efforts made and the results achieved. We also wish to thank the Division for Ocean Affairs and the Law of the Sea for preparing the relevant reports and, in particular, for launching various training programmes for developing countries.

The reports submitted to us by the Secretary-General indicate some progress in protecting the marine environment. Unfortunately, however, there are still signs of its degradation and of a lack of compliance by States with their obligations under the international law of the sea regime.

Mexico is convinced that cooperating and coordinating at all levels, establishing interdisciplinary and integrated approaches in the management of ocean affairs and recognizing the jurisdiction of the competent legal bodies with a view to the peaceful settlement of disputes will ensure the effectiveness of the international community’s legal, political and technical tools, in particular the 1982 Convention on the Law of the Sea.

We welcomed the holding of the eighteenth meeting of States parties to the Convention, which devoted five days to the discussion of substantive issues of interest to States parties, particularly developing countries, independently of the elections to the International Tribunal of the Law of the Sea.

We wish in particular to highlight the work of the Commission on the Limits of the Continental Shelf and to reaffirm our commitment to help build its capacities so that it can deal with the significant increase in its workload. Therefore, we welcome the measures to that end set out in the omnibus draft resolution (A/62/L.27).

With regard to the Commission on the Limits of the Continental Shelf, I wish to take this opportunity to inform members that the Government of Mexico has completed the relevant study and will give a partial presentation to the Commission during the next few weeks.

Mexico also wishes to reiterate the importance of capacity-building in the preparation of trustworthy nautical maps guaranteeing the security of navigation to protect the marine environment, in particular, vulnerable marine ecosystems like coral reefs.

The protection of human rights for seafarers must be given special attention, given the frequent violations relating to procedural guarantees. For that reason, the anticipated rules in the Convention regarding the prompt release of vessels and its crew, sanctions for the contamination of the marine environment by foreign ships and laws governing the recognized rights of those accused, must be respected.

Concerning the maritime transportation of radioactive materials and the lack of proper protocols for determining responsibility and compensation in the event of accidents, while we recognize that some progress has been made in the framework of the International Atomic Energy Agency (IAEA), we share the Caribbean Community’s (CARICOM) vision of the

Above and beyond this international context, Venezuela has, within the national framework, reflected international law in its national legislation, including, inter alia, an organic law on aquatic and insular spaces, a law on fishing and fish farming and a legal decree on coastal areas. In that vein, the delegation of the Bolivarian Republic of Venezuela wishes to emphasize that the question of sustainable fishing is a priority area for our country. We have undertaken major initiatives to promote and implement programmes aimed at conserving, protecting and managing hydro-biological resources, within the framework of developing national legislation. In particular, the law on fishing and fish farming promotes the responsible, rational and sustainable development of those resources.

In connection with illegal, unreported and unregulated fishing, Venezuela has taken the necessary action to deal with that situation through regular reports, submitted to the regional fisheries management organizations of which we are a member, on the location and legal status of ships flying the Venezuelan flag on the high seas. Venezuelan legislation will require satellite positioning equipment for fishing ships greater than ten gross tons. We would also note the on-board observer programme that monitors — within the framework of the Inter-American Tropical Tuna Commission — the fishing of tropical tuna and its effect on dolphins, including illegal fishing, in the Eastern Pacific Ocean.

Another important aspect of Venezuelan legislation that we wish to stress involves the regulation of trawling, and here we have established a sanctions regime where there is a failure to abide by standards of conservation and resource management.

Internationally, Venezuela has implemented the principles of the Code of Conduct for Responsible Fisheries and Chapter 17 of Agenda 21 adopted at the 1992 United Nations Conference on Environment and Development. We have also participated actively in regional fisheries management organizations such as the Committee on Fisheries of the FAO and its subsidiary bodies, the Western Central Atlantic Fishery Commission, the Latin American Fisheries Development Organization, the Commission for Inland Fisheries of Latin America and the Caribbean and we have participated in the Inter-American Tropical Tuna Commission.

We are a contracting party to a number of international instruments, including the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region and its Protocol concerning Specially Protected Areas and Wildlife. We are a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and to the Convention on Biological Diversity.

It is important to point out again that the Bolivarian Republic of Venezuela is not a party to the United Nations Convention on the Law of the Sea, nor are we a party to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, nor are the international common law provisions of those international instruments applicable, except for those that the Bolivarian Republic of Venezuela has expressly recognized or will recognize in the future by incorporating them in internal legislation. The reasons that have prevented us from acceding to those instruments continue to exist.

In conclusion, we wish to take this opportunity to express our profound appreciation to the Federative Republic of Brazil for the splendid job that delegation has done as coordinator of the Informal Consultations on the subject. In particular, our thanks go to Ambassador Henrique Valle. At the same time we wish to thank all of those delegations that participated in the negotiations carried out during the Consultations for the understanding they showed towards the views submitted by my delegation. All of that is further proof of the fact that through negotiation and good will and through an understanding of various positions we can reach a final agreement.

The draft resolution on oceans and the law of the sea is palpable proof of what can be accomplished in the future at the United Nations, of the solidity of the foundations of our work, and of the validity of our international house — the United Nations — as the universal forum par excellence for multilateral negotiations.

Mr. Menon (Singapore): I have the honour to speak on agenda item 77 (a), “Oceans and the law of the sea”. Singapore is an island nation with significant maritime interests. A large part of our environment

consists of marine and coastal areas. Our economy depends heavily on international shipping and trade. Singapore sees the United Nations Convention on the Law of the Sea as the principal framework for dealing with all issues relating to maritime rights and obligations. New and sometimes challenging issues have come up since the Convention was adopted, but the Convention continues to retain its relevance and pre-eminence.

The annual informal consultations on the omnibus draft resolution serve as a forum for Member States to come together and discuss key developments on oceans issues over the past year. This year was no different. The one departure from previous years, however, is that the informal consultations actually ended on time. I understand from many participants that this was a much welcome break from tradition. In this regard, we would like to congratulate Ambassador Henrique Valle of Brazil on his able leadership in coordinating draft resolution A/62/L.27. Singapore looks forward to the adoption of the omnibus draft resolution by the Assembly.

Last year, my delegation spoke about the worrying trend by some coastal States to tilt the balance of the Convention in favour of the environment. For example, we noted that Australia had imposed a system of compulsory pilotage in the Torres Strait. This is a strait used for international navigation that lies between Australia and Papua New Guinea. Australia explained that such measures are necessary to protect the sensitive marine environment of the Torres Strait and that these measures facilitate safe passage through those narrow and treacherous waters.

Singapore fully supports efforts to protect the marine and coastal environment and to ensure safety of navigation. But such measures must not contravene the carefully negotiated package enshrined under the Convention. Under the Convention, ships and aircraft transiting such straits enjoy the special regime of transit passage. A State bordering such straits must adopt a limited set of laws and regulations relating to transit passage through the straits. The laws and regulations that may be adopted are specifically laid out in article 42 of the Convention.

Other delegations reinforced this point in their statements in the Assembly last year. They have continued to do so this year. The message is that we need to respect the integrity and provisions of the Convention. We cannot pick and choose to comply with parts of the Convention that we like and ignore others that we do not. Neither can we misuse certain provisions in an attempt to justify measures that are inconsistent with the Convention. The Convention must be read as a whole, and it must be fully complied with.

Unfortunately, Australia continues to operate the compulsory pilotage system in the Torres Strait. This requirement of taking a pilot on board is imposed on all ships transiting the Strait. It is not just a condition of entry for Australian ports. In Singapore's view, this goes beyond what is permitted by article 42 of the Convention. The requirement to take a pilot on board, which Australia will enforce using its criminal laws, seriously undermines the right of transit passage which all States enjoy under the Convention.

Australia continues to argue that the compulsory pilotage system is consistent with the Convention because the Convention does not explicitly prohibit it as a means of enhancing navigational safety. Australia also continues to claim that the compulsory pilotage system has the approval of the International Maritime Organization (IMO). Both of those claims are untrue.

First, Singapore has consistently pointed out that Australia's actions threaten the delicate balance in the Convention between the interests of coastal States and the interests of user States in straits used for international navigation. Singapore fully supports efforts to protect the marine and coastal environment. But such measures must not contravene the Convention.

Secondly, Singapore has also explained that the IMO resolution cited by Australia as the basis of approval by that body was recommendatory in nature. The IMO resolution, therefore, does not provide any legal authority to impose compulsory pilotage in the Torres Strait or any other strait used for international navigation. This view was shared by a vast majority of countries that attended the recent IMO Assembly in London. Of those countries, 31 reaffirmed the recommendatory nature of that resolution. Only three spoke in opposition.

Singapore continues to take a very serious view of Australia's compulsory pilotage system, which we see as a contravention of the Convention. We have made these points clearly to Australia. Since the Assembly's consideration of this agenda item last year,

Singapore has met with Australia to discuss how to resolve our differences on the legality of the compulsory pilotage system. There has been no resolution so far. Singapore enjoys good bilateral relations with Australia. We will continue to work with Australia to try to resolve this issue amicably. We are also open to exploring other options where this issue can be given serious and appropriate consideration.

Let me be clear that this is not just an issue between Singapore and Australia. All of us who are concerned with protecting the sanctity of the Convention, particularly its provisions on navigational rights, have a stake in this issue. We have to point out that Australia's actions have broader implications for the integrity of the Convention. This is not just about what happens in the Torres Strait. If the international community allows this implementation of compulsory pilotage to go uncensured, this could potentially lead to an erosion of the right of transit passage in international straits, as well as navigational rights in other maritime zones enshrined by the Convention. This would have a serious impact on strategic, shipping, economic and energy interests all over the world.

I would like to reiterate Singapore's continued support and commitment to the promotion of maritime safety and security. We are happy that the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (RECAAP) continues to make progress. RECAAP was formally recognized as an international organization on 30 January 2007. The RECAAP Information Sharing Centre, which Singapore is pleased to host, became fully operational within seven months of its official launch in November 2006. That took place ahead of schedule. We believe that the RECAAP Information Sharing Centre can play a unique role in the international effort against piracy and armed robbery, through operational linkages and working relationships with all relevant stakeholders, including the IMO. We are, therefore, pleased to welcome the decision taken at the twenty-fourth IMO Extraordinary Session last month to approve the formal Agreement of Cooperation between the IMO and the RECAAP Information Sharing Centre. This will enable both parties to benefit mutually from information exchange and coordination on matters of common interest.

At the recent IMO meeting held in Singapore in September 2007, a landmark decision was taken to adopt a Cooperative Mechanism that would provide a framework for littoral States and user States to work together for the safety of navigation and environmental protection in the Straits of Malacca and Singapore. Owing to the initiative of the IMO and the cooperative attitudes of the three littoral States of Indonesia, Malaysia and Singapore, the user States and the shipping industry, we have finally been able to implement article 43 of the Convention. This will ensure that ships passing through the Straits of Malacca and Singapore are accorded the right of transit passage as provided for under international law, while respecting the sovereignty of the littoral States.

Finally, as part of our efforts to promote and encourage adherence to the Convention, the S. Rajaratnam School of International Studies at the Nanyang Technological University of Singapore, together with the Center for Oceans Law and Policy at the University of Virginia School of Law, will be organizing a conference entitled "Freedoms of the seas, passage rights and the 1982 Law of the Sea Convention" from 9 to 11 January 2008. The conference will be held in Singapore. We hope that the conference will help create greater awareness about the freedoms, rights and jurisdiction accorded to States under international law.

Mr. Bowoleksono (Indonesia): Let me begin by thanking the Secretary-General for his comprehensive report entitled "Oceans and the law of the sea", contained in document A/62/66 and its two addenda. Our appreciation also goes to the Division for Ocean Affairs and the Law of the Sea and the Secretariat for their commitment to this subject matter.

Twenty-five years ago today, the United Nations Convention on the Law of the Sea (UNCLOS) was opened for signature at Montego Bay, Jamaica, following its adoption after nine years of marathon negotiations. Remarkably, 119 countries signed the Convention on the very first day. It is also noteworthy that, since then, the Convention has received very broad support from the international community, as reflected in its current 155 States parties. Indeed, that is a reflection of the universality of the Convention as the constitution of the oceans, to govern every aspect of the use and resources of the seas and any activities relating to the ocean space.

Despite that, it is obvious that much remains to be done to effect the implementation of the