



General Assembly

Seventieth session

69th plenary meeting
Tuesday, 8 December 2015, 3 p.m.
New York

Official Records

President: Mr. Lykketoft (Denmark)

In the absence of the President, Mr. Abdrakhmanov (Kazakhstan), Vice-President, took the Chair.

The meeting was called to order at 3 p.m.

Mr. Shapoval (Ukraine): Ukraine fully aligns itself with the statement made by the observer of the European Union (see A/70/PV.68) and would like to make a statement in its national capacity.

We would like to express our gratitude to the Secretariat and to the Division for Ocean Affairs and the Law of the Sea for the work done during the year, including the preparation of the annual report on oceans and the law of the sea (A/70/74). Our appreciation also goes to Ambassador Eden Charles and Ms. Alice Revell for their excellent stewardship of the consultations on draft resolutions A/70/L.22 and A70/L.19.

Ukraine is strongly committed to the United Nations Convention on the Law of the Sea (UNCLOS) as a framework convention that represents the constitution of the oceans, reflects customary international law and establishes the overarching legal framework within which all activities in the oceans and seas should be managed. It is our firm belief that that the goal of universal participation in the Convention will soon be met.

The UNCLOS legal order currently faces just such a challenge from the wrongful international acts of the Russian Federation in Ukraine and its maritime areas. Our delegation recalls that Russia, beginning in February 2014, carried out an armed aggression against our country, in violation of the Charter of the United Nations, and engineered a referendum on secession, in breach of the fundamental rules and principles of international law, including the principles of respect for sovereignty and territorial integrity of the State.

Agenda item 79 (continued)

Oceans and the law of the sea

(a) Oceans and the law of the sea

Reports of the Secretary-General (A/70/74 and A/70/74/Add.1)

Report on the work of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (A/70/418)

Report on the work of the United Nations Open-ended Informal Consultative Process (A/70/78)

Letter from the Co-Chairs of the Ad Hoc Working Group of the Whole to the President of the General Assembly (A/70/112)

Draft resolution (A/70/L.22)

(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

Draft resolution (A/70/L.19)

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In that regard, Ukraine would like to recall that resolution 68/262, entitled “Territorial integrity of Ukraine”, reconfirms the sovereignty of Ukraine over Crimea and calls upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the so-called referendum, and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

Thus, Russia’s attempt to assume Ukraine’s legitimate responsibility for international shipping matters — including those regarding the safety of navigation, the protection of marine environment from ship pollution, search and rescue, ship registration, and the certification of crew members of seagoing vessels in the maritime areas adjacent to Crimea and the city of Sevastopol — is a wrongful act at the international level, for which the Russian Federation bears international responsibility. The Russian Federation’s unlawful unilateral amendments of navigational charts, published in the notices to mariners by the Department of Navigation and Oceanography of the Ministry of Defence of the Russian Federation, constitutes unlawful usurpation of navigational and hydrographic support of navigation.

It should also be emphasized that the Russian Federation continues to violate the sovereign rights of Ukraine in other areas of the international law of the sea. In particular, the Russian Federation has violated Ukraine’s sovereign rights to natural resources by illegal exercising regulatory jurisdiction and by seizing and illegally using Ukrainian gas and oil fields located in the Black Sea, which are part of the continental shelf and exclusive economic zone of Ukraine. Those and other flagrant breaches of UNCLOS have serious repercussions for the rights and obligations of Ukraine and other parties to the Convention.

I wish to recall the decision of the Government of Ukraine to close down, beginning in June last year, all seaports in the territory of Crimea, namely, those of Kerch, Sevastopol, Feodosia, Yalta and Yevpatoria. All States members of the International Maritime Organization (IMO) were duly notified of that decision through the IMO secretariat. Moreover, the Ukrainian side has raised that issue at various IMO meetings, including the ninety-fourth and ninety-fifth sessions of the IMO Maritime Safety Committee, in November 2014 and June 2015, as well as at the 25th Meeting

of States Parties to UNCLOS in June 2015. Ukraine expects the competent authorities of all Member States to ensure the compliance of ship owners, operators and ship masters with international law and the decision of Ukraine to close the ports in Crimea and Sevastopol.

Notwithstanding the Ukrainian side’s decision to close its seaports and to limit navigation within its jurisdiction, commercial vessels and warships flying the flag of the Russian Federation systematically enter the closed Ukrainian seaports and navigate without authorization in Ukraine’s internal waters and territorial sea, namely, the Black Sea and the Sea of Azov. By November 2015, more than 200 different vessels and non-commercial ships flying the Russian flag had illegally entered closed ports in the Crimea peninsula. At the same time, Ukraine has not received any response from the Russian Federation to Ukraine’s numerous notes verbales on that particular issue. The Russian Federation’s systematic violation of restrictions lawfully imposed by Ukraine in its seaports, internal waters and territorial sea constitute a violation of Ukraine’s sovereignty and a breach of the Convention.

Encouraged by the international community’s success in countering maritime piracy, Ukraine wishes to underscore that no sustainable results are possible until we deal with the root causes of piracy and the perpetrators of acts of piracy, as well as their organizers and facilitators on land, are brought to justice. We express our growing concern over the high number of accidents of piracy and armed robbery at sea in the Gulf of Guinea, in particular violence against innocent crew members. Ukraine also fully supports the IMO recommendations to Governments for preventing and suppressing piracy and armed robbery against ships, additionally revised by the Maritime Safety Committee and distributed in IMO circular letter No. 1333. Ukraine urges coastal States, flag States and industry to do everything possible to ensure the safety and security of maritime shipping, especially in high-risk regions.

As one of the major origin States for seafarers, Ukraine stands ready to further cooperate with the States Members of the United Nations, IMO, the International Labour Organization and other actors with a view to enhancing measures aimed at protecting the welfare of seafarers who fall victim to pirates, including their post-incident treatment and reintegration into society.

Mr. Pham (Viet Nam): Viet Nam joins other States in welcoming the remarkable achievements in

marine and sea management and uses within the legal framework of the United Nations Convention on the Law of the Sea (UNCLOS).

We would like to thank the Secretary-General for his comprehensive report (A/70/74), which emphasizes the role of ocean activities in achieving sustainable development, as well as the importance of the effective implementation of the United Nations Convention on the Law of the Sea. We also would like to express our appreciation for the enormous efforts and work of the subsidiary organs of the General Assembly in recent years. We appreciate the outcome document of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (see A/69/780), which reaffirms the commitment of States to developing an international, legally binding instrument under UNCLOS. Vietnam also welcomes the successful activities of the organs established by the Convention, including the success of the twenty-first session of the International Seabed Authority, the collaborative efforts of the Commission on the Limits of the Continental Shelf to consider the submissions made by States parties, and the various activities of the International Tribunal on the Law of the Sea this year.

Viet Nam joins other States in underscoring the vital role of oceans as well as the impact of human activities on our oceans. In that regard, we would like to recall the importance of UNCLOS — the constitution of the oceans — in promoting the peaceful, equitable, sustainable and efficient use of oceans and governing activities in the oceans and seas with the aim of achieving common peace and prosperity for humankind. We are pleased to see that, more than 30 years after the Convention's adoption and more than 20 years since its entry into force, UNCLOS has become one of the most widely recognized international multilateral treaties.

As a State party to the Convention and a coastal State in the East Sea or South China Sea, Viet Nam has always adhered to the provisions of the Convention, respected the legal rights of other nations and participated in activities under the framework of the Convention. We have established sea zones under its jurisdiction and in accordance with its provisions, as well as a regime for maritime management, exploration and exploitation, in order to advance the country's economic development and ensure national food security.

We deeply understand the importance of maintaining peace and stability in the region and of the sustainable development of the ocean economy. All countries should respect and fulfil their obligations and conduct activities to ensure the sustainable development of the oceans in accordance with international law. In that vein, we support the General Assembly's new focus on sustainable development and the conservation of marine diversity and safe maritime navigation. At the regional level, Viet Nam welcomes the efforts of all nations in maintaining peace, security and cooperation for development in the South China Sea and in ensuring the effective implementation of the Declaration on the Conduct of Parties in the South China Sea. Viet Nam urges all parties concerned to redouble their efforts to advance the consultative process on the code of conduct to its next phase.

However, there is still a gap between political commitment and practical actions, which causes tension and complicates the situation in our region. Viet Nam calls on all concerned parties to abide by their commitments, respect and comply with the rules of international law, and refrain from any activities that would change the status quo, militarize the South China Sea or complicate or escalate disputes, thereby affecting peace and stability in the region.

The seas and oceans are an invaluable gift of nature. Let us join hands in preserving marine life and the environment so that the sea and ocean remain forever the cradle for the development of humankind.

Mr. AlMowazri (Kuwait) (*spoke in Arabic*): At the outset, I thank Mr. Mogens Lykketoft for presiding over this session of the General Assembly and the Secretary-General for the report he has submitted to the General Assembly (A/70/74), pursuant to the resolutions on oceans and the law of the sea.

Kuwait has considered the report on oceans and the law of the sea, which reiterates that sustainable development is based on the Earth's natural resources, including the oceans and seas. That issue is addressed by the 2030 Agenda for Sustainable Development (resolution 70/1), in particular Goal 14, which advocates the protection of oceans and seas to achieve sustainable development.

International navigation and shipping make up a large part of international trade, despite the acts of pirates and terrorists who target vessels and other marine activity, posing a significant threat to international

shipping and the lives of all who work in that field. The State of Kuwait therefore condemns all acts of piracy and terrorism on the seas and oceans and welcomes the efforts of the International Maritime Organization and the International Labour Organization to combat such activities and to address such crimes.

This year marks the thirtieth anniversary of the United Nations Convention of the Law of the Sea, to which we acceded in 1986. We attach particular importance to that instrument. We have also ratified all the documents related to its implementation. In addition, we have acceded to the Convention on the International Regulations for Preventing Collisions at Sea and to other measures on the protection of the sea. In that regard, the State of Kuwait welcomes the fact that a number of other States have also acceded to that Convention, as well as to others as observers. We would therefore encourage other States to accede to the Convention so that we can resolve the problems that it addresses.

We would also like to see greater respect for international law in this area. Based on that conviction, Kuwait makes every effort to respect resolution Security Council 2246 (2015), which was adopted on 10 November within the framework of the Chapter VII Charter of the United Nations. The resolution encourages all States to criminalize acts of piracy within their national legislation with a view to preventing them, in line with international law and international human rights law.

To conclude, the State of Kuwait invites all Member States to cooperate and pool their efforts to make good use of the resources of the sea through technology and in respect for all legal provisions and international conventions so as to maintain international peace and security.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): Our delegation attaches great importance to the General Assembly's discussion of issues concerning the law of the sea and sustainable fishing. We thank the Secretary-General for his substantive reports on maritime issues. We also thank the coordinators of the informal consultations on draft resolutions A/70/L.19 and A/70/L.22, under consideration today, as well as the Director and staff of the Division for Ocean Affairs and the Law of the Sea, who have made a professional contribution to the work on the draft resolutions.

We recognize the importance of maintaining and making sustainable use of the resources of the world's

seas. We have consistently advocated for strengthening the scientific foundation for the development of policies on maritime activities. In that connection, we welcome the outcome of the first global assessment of the state of the marine environment (see A/70/418), which has been completed this year. We thank the Group of Experts of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, for its extensive work.

We welcome the discussions that took place at the 16th meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea. That forum remains a useful platform for reviewing a broad spectrum of maritime issues. We believe that it should continue to be held regularly. We have closely followed the discussions within the United Nations of issues related to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. We intend to participate constructively in the work of the preparatory committee set up under resolution 69/292.

Nevertheless, we will not be able to support initiatives that could lead to an unjustified limitation of maritime activities in the absence of corresponding reliable scientific and international legal bases. We believe that the process launched under resolution 69/292 should not damage the current system of regional fisheries management organizations or existing international treaties, first and foremost the United Nations Convention on the Law of the Sea and 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. The Russian delegation intends to play an active role in the 2016 Review Conference for that important Agreement. We are in favour of enhancing measures to combat illegal, unreported and unregulated fishing. We encourage States to participate in establishing new and improving the effectiveness of existing regional fishing organizations.

We note the work of the bodies set up in accordance with the 1982 Convention. Next year will mark the twentieth anniversary of the International Tribunal for the Law of the Sea, which has reviewed dozens of cases in those years. The Commission on the Limits of the Continental Shelf is also working actively, which

has led to a significant increase in the workload for those involved. We believe that its members should be provided with suitable service conditions, including faster resolution of matters related to their medical insurance when they are working in New York. As active members of the Committee, we intend to continue to participate in the work of the Working Group on the Conditions of Service in order to identify effective measures that will allow us over time to optimize its activities.

In conclusion, I would like to express regret at the latest attempt by the delegation of Ukraine to make use of the General Assembly to make unfounded allegations concerning Russia. The status of Crimea, like other maritime areas, was defined as a peninsula in a statement issued a number of years ago. This question has nothing to do with the agenda item we are discussing today, but since the subject has been raised, I would like to assure the Assembly that the Russian authorities are duly fulfilling their obligations under international maritime law in the areas under Russian jurisdiction. That fully applies to the waters off the coast of Crimea.

Mr. Li Yongsheng (China) (*spoke in Chinese*): The ocean is the cradle of human civilization, the common home of humankind and a valuable space for sustainable development. Promoting sustainable maritime development represents the shared aspiration of peoples throughout the world and corresponds with the proposals put forward by the Chinese Government towards a harmonious world and harmonious oceans and seas.

The Chinese delegation is very pleased to see that the conservation and sustainable use of oceans and seas have been incorporated as a significant component of the 2030 Agenda for Sustainable Development (resolution 70/1). To achieve that goal, countries need to develop political will and embrace the idea of a community of common destiny in addressing ocean affairs so as to jointly respond to challenges and expand pragmatic cooperation with a view to achieving common development.

Over the past year, we have witnessed achievements, challenges and progress in the field of oceans and the law of the sea. China has actively participated in the consultations on the texts of draft resolutions A/70/L.22, on oceans and the law of the sea, and A/70/L.19, on sustainable fisheries. I thank Ambassador Eden Charles of Trinidad and Tobago and Ms. Alice Revell of New

Zealand for their contributions as facilitators of the consultations. I also wish to recognize the work done by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs. I take this opportunity to share China's position and ideas on relevant aspects concerning oceans and the law of the sea.

First, the Chinese delegation commends the International Seabed Authority (ISA) on its achievements over the past year. In July, the ISA considered and approved procedures and criteria for extending contracts for exploration and decided to make the acceleration of the formulation of draft regulations for exploitation a priority for the Legal and Technical Commission. It also decided to launch the periodic review of the international regime governing the seabed. Such work is of great significance to the improvement of the international seabed regime. The Chinese Government attaches great importance to and has been positively involved in international seabed affairs. We will diligently fulfil our relevant obligations to ensure the comprehensive and faithful implementation of the signed contracts for exploration in the area. As a developing country, China pays great attention to the effective and comprehensive participation of developing countries in international seabed affairs and has provided assistance to the best of its ability. This year, China has once again donated \$20,000 to the ISA Voluntary Trust Fund to finance the participation of members from developing countries in meetings of the Legal and Technical Commission and the Finance Committee of the Authority.

Secondly, the Chinese delegation has taken note of the increasingly important role played by the International Tribunal on the Law of the Sea in such areas as the peaceful settlement of maritime disputes and the maintenance of international maritime order. China appreciates the Tribunal's contribution to the promotion of capacity-building of developing countries and training their personnel in the law of the sea.

In April, an order was rendered with respect to a request for an advisory opinion by the full Tribunal in case no. 21, which gave rise to some concerns on our part. Many countries, including China, believe that the Tribunal lacks the legal basis for exercising such advisory jurisdiction. China hopes that in future the Tribunal will give full consideration to the concerns of all sides and exercise caution in addressing advisory jurisdiction.

Thirdly, the Chinese Government highly appreciates the hard work of the Commission on the Limits of the Continental Shelf and its positive contribution to a balanced handling of the legitimate rights and interests of coastal States and the overall interests of the international community. We support the Commission in continuing to fulfil its mandate strictly in accordance with the Convention and its own rules of procedure, particularly the rule that the Commission shall not consider a submission in cases where a land or maritime dispute exists between the countries concerned.

China has taken note of the increasingly heavy workload of the Commission and supports the ongoing efforts to improve its working conditions and to address the issue of providing medical insurance to its members. In the past, China has made multiple donations to the Volunteer Trust Fund for the Commission in order to help members from developing countries to attend the Commission's meetings. This year, we donated another \$20,000 to the Voluntary Fund.

Fourthly, the international community attaches great importance to the preservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. In accordance with resolution 69/292, the preparatory committee for negotiating an international agreement on marine biodiversity in areas beyond national jurisdiction will hold its first meeting in March 2016 to launch the relevant negotiation process. China believes that formulating an international agreement on marine biodiversity in areas beyond national jurisdiction is currently the most important legislative process in the field of the law of the sea. The relevant negotiations shall proceed in an orderly and progressive manner. The need for all countries, particularly the developing countries, to enjoy fair use of marine biological resources should be fully accommodated, and existing legal regimes and frameworks should not be jeopardized. The Chinese delegation is ready to take an active part in the work of the preparatory committee and the negotiating process that follows.

The sustainable development of the oceans and seas cannot be achieved without a just international maritime order. All countries should comply with international law in exercising their rights, fulfil their obligations in good faith and ensure the equal and uniform application of international law. All countries and international judicial organs should respect the legitimate right of countries to independently choose their own ways to

settle disputes peacefully, refrain from acting *ultra vires* in interpreting and applying rules of international law, or even disregard objectivity and justice and use the rule of law as a pretext for violating the rights and interests of other countries. The formulation, interpretation and application of international law should serve to promote peace, development and cooperation. With regard to the abuse of international law by one country that unilaterally initiates or forces a so-called arbitration, the other country surely has the legitimate right not to accept and not to participate. Such arbitration therefore cannot and will not have any effect.

China has always promoted international cooperation characterized by mutual trust, mutual benefit and collaboration on an equal footing. We look forward to further strengthening cooperation with other countries in exploring together ways to address various challenges in the area of the oceans and seas and jointly build a harmonious world with harmonious oceans and seas that enjoys lasting peace and common prosperity.

The Acting President: In accordance with resolution 51/6, of 24 October 1996, I now call on the Secretary-General of the International Seabed Authority.

Mr. Odunton (International Seabed Authority): This being the first time that the International Seabed Authority is addressing the General Assembly at its seventieth session, I would like to convey to the President our warmest congratulations on his election to the presidency and assure him of the Authority's trust and support.

I wish to refer to the two draft resolutions before the General Assembly and convey my appreciation to speakers today for their words of support for the importance of the work of the International Seabed Authority. I also wish to express my thanks and gratitude for the very detailed report of the Secretary-General (A/70/74), which this year once again provides comprehensive background information for our review. I am also grateful to the dedicated Director and staff of the Division for Ocean Affairs and the Law of the Sea for its excellent cooperation with the secretariat of the Authority throughout the course of the year.

As comprehensively reflected in the draft resolution contained in document A/70/L.22, this year marked a critical point in the evolution of the Authority on a number of matters. To name a few, these matters included the decision of the Council on substantive

actions to be undertaken and a time frame of 12 to 18 months to complete the regulations for exploitation of polymetallic nodules in the Area, the decision on procedures and criteria for the extension of contracts for exploration for polymetallic nodules in the Area, the unprecedented decision to undertake a review of the way in which the legal regime for the Area has operated in accordance with article 154 of the Convention, the number of contracts signed by the Authority and identification of resources to facilitate their administration, and the increase in capacity-building opportunities provided and funded by contractors, as well as the continuing efforts at capacity-building made possible by the Authority's Endowment Fund.

The Authority has been entrusted with the implementation of the common heritage of mankind that applies to mineral resources beyond the limits of national jurisdiction. The legal regime for the common heritage of mankind represents a major innovation not only in the law of the sea but also in international law in general. The regime breathes life into a revolutionary vision of the sustainable development of mineral resources in the international seabed Area and the sharing of benefits and responsibilities for all States, including the landlocked and geographically disadvantaged States.

In paragraph 54 of the draft resolution, the Assembly notes that 27 plans of work for exploration for the three mineral resources presently identified by the Authority have been approved by the Council of the Authority. This represents a remarkable increase in number and demonstrates the trust placed by contractors and their sponsoring States in the administration of the common heritage of mankind by the Authority.

This year, the Authority signed five new contracts, bringing the total number of contracts for exploration to 23. Two of the new contracts were for exploration for polymetallic nodules with Marawa Research and Exploration Ltd. on 19 January and with Ocean Mineral Singapore Pte Ltd., on 22 January; one contract was for exploration for polymetallic sulphides with the Federal Institute for Geosciences and Natural Resources of Germany on 6 May, and the last two contracts were for exploration for cobalt-rich ferromanganese crusts with the Ministry of Natural Resources and Environment of the Russian Federation on 10 March and with Companhia de Pesquisa de Recursos Minerais of Brazil on 9 November. At the present time, therefore, 14 of the contracts are for exploration for polymetallic nodules,

five are for exploration for polymetallic sulphides and four are for exploration for cobalt-rich ferromanganese crusts. It is anticipated that the remaining approved plans of work will be converted into contracts and signed prior to the twenty-second session of the Authority in July 2016. On behalf of the Authority, I wish to express my thanks and appreciation to these entities and their sponsoring States whose actions indicate their strong commitment to the concept of the common heritage of mankind and their confidence in the work of the Authority and who have thus entered into a long-lasting cooperative relationship with the Authority.

While new contracts have entered into force this year, six of the first contracts signed by the Authority in 2001, for exploration for polymetallic nodules in the Area, will expire in 2016. As a result, it was a matter of urgency for the Authority to adopt procedures and criteria for the extension of contracts in the absence of any applications for contracts for exploitation. The Legal and Technical Commission, which was asked to undertake this task, was able to recommend a set of procedures and criteria to the Council, which adopted them in July. The procedures and criteria for the extensions recognized the efforts of contractors over the past 15 years and will ensure that the Commission is provided with all the information and data it needs to make appropriate recommendations on the requests for extensions. I would like to express my appreciation for the speed with which the Council was able to proceed and adopt procedures and criteria by consensus.

As of today, five requests for extensions of contracts for exploration for polymetallic nodules have been submitted to the Authority. They are from Yuzhmorgeologiya, sponsored by the Russian Federation; the Interoceanmetal Joint Organization, sponsored by Bulgaria, Cuba, the Czech Republic, Poland, the Russian Federation and Slovakia; the Government of the Republic of Korea; the China Ocean Mineral Resources Research and Development Association, sponsored by China; and the Deep Ocean Resources Development Company Limited, sponsored by Japan. Consideration of those requests will be placed on the agenda of the Legal and Technical Commission for its next meeting, due to commence on 22 February 2016.

The draft resolution before the Assembly today recognizes the Authority's ongoing work on the exploitation code for polymetallic nodules as a priority and in accordance with the list of priority deliverables

endorsed by the Council of the Authority in July. The secretariat will give this major issue all the support needed, including for external experts, to enable the Commission and the Council to perform their responsibilities next year.

Paragraph 53 of the draft resolution reiterates the importance of the pioneering and ongoing efforts of the Authority to develop a standardized taxonomy and nomenclature for the fauna associated with polymetallic nodules, pursuant to the responsibilities entrusted to the Authority in relation to the protection of the marine environment and marine scientific research in the Area. In that regard, I am pleased to note the holding of a third workshop dealing with the standardization of the taxonomy of meiofauna associated with polymetallic nodules, to be convened next week in Ghent, Belgium, and which I am grateful to the University of Ghent for hosting. Representatives of all contractors for polymetallic nodules, as well as expert taxonomists, will participate. The outcomes will be placed on the agenda of the Legal and Technical Commission next year to ensure that the recommendations for the guidance of contractors are complete with regard to the fauna — megafauna, macrofauna and meiofauna — associated with polymetallic nodules, and that the standardization keeps abreast of the latest scientific methods. After review by the Commission, it is expected that the standardized taxonomy will be made available to all contractors and marine research institutions on the Authority's web page.

Equally important are the recommendations issued by the Commission in July providing reporting standards for exploration results and resource classification. This mineral resource classification framework is particularly necessary in the light of the increasing commercial interest in the Area's resources and in the assessment of contractors' activities. At the workshop convened for the purpose in 2014, the experts indicated that resources identified in exploration areas could be classified in a number of ways, including "speculative", "inferred", "measured" and "reserves" of the metals that they contain. The classifications describe, among other things, the extent to which resources have been sampled, the distances between sample stations, the availability of technology for mining them and markets for the metals of commercial interest. Of the various classes, reserves are the ones of most interest to investors and bankers. While it was recognized that contractors had achieved a lot in their

efforts to identify reserves of copper, nickel and cobalt in their exploration areas, it was also recognized that no contractor had yet undertaken a pilot mining test to prove that nodules could be brought up to the ocean surface in quantities that could support a viable mining project.

The recommendations issued by the Legal and Technical Commission include factors that must be taken into account, the data and information required and the need for pilot mining tests to ground truth models that have been developed to ascertain the potential profitability of a deep seabed polymetallic nodule project. The last time any such tests were conducted was in 1978. Since then, a number of the associated technologies, such as flexible risers, have been radically improved. Another component of the mining system that would have to be tested is the collector device in situ. At current costs, it would appear that very few contractors wish to undertake that test individually. I believe that such tests could be facilitated by collaboration among contractors to test their collector devices and conduct pilot mining tests and environmental impact assessments. Such an approach would reduce the costs and risks for each contractor and facilitate the conversion of polymetallic nodule resources from inferred resources to reserves of the metals, which is a prerequisite for proceeding to exploitation. The Authority will take the necessary steps to support such collaboration.

Paragraphs 58 and 60 of the draft resolution emphasize the importance of the role entrusted to the Authority by articles 143 and 145 of the Convention and refer to the need for environmental management plans for regions and areas where there are currently exploration contracts. In that regard, Member States have shown a clear commitment to building on the Authority's ongoing work in connection with the implementation of the environmental management plan for the Clarion-Clipperton Zone, which will be reviewed next year. In that regard, I am pleased to inform the Assembly that discussions are already under way on convening a workshop to review the implementation of the environmental management plan for the Clarion-Clipperton Zone, as well as on lessons learned that could be applied to a plan for the Mid-Atlantic Ridge and other geographic areas, taking into account data availability and standardization and in cooperation with other sponsoring Governments and organizations.

At the Authority's twentieth session, its Assembly adopted a budget of \$15,743,143 for the Authority's operations for the financial period 2015-2016. During that session, the Council also adopted a decision that an overhead charge should be paid by contractors to enable the Authority to administer and supervise their contracts, in the amount of \$47,000 per annum for each contractor. Support was voiced for the idea of establishing an International Seabed Authority Museum. I was requested to prepare a report for the Council's consideration outlining the objectives of establishing such a museum and how to achieve them.

Echoing paragraph 61 of the draft resolution, I wish to convey the Authority's appreciation to those who have made contributions to the Authority's endowment fund and voluntary trust fund. The endowment fund promotes and encourages collaborative marine scientific research in the international seabed Area for the benefit of humankind through two main activities — first, by supporting the participation of qualified scientists and technical personnel from developing countries in marine scientific research programmes and activities, and secondly, by providing those scientists with opportunities for participating in relevant initiatives.

As of 1 December, a total of 76 scientists and Government officials from 40 countries have obtained financial support from the ISA Endowment Fund. The recipients were from Argentina, Bangladesh, Bolivia, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, the Cook Islands, Costa Rica, Egypt, Fiji, Greece, Guyana, India, Indonesia, Jamaica, Madagascar, Malaysia, Maldives, Malta, Mauritania, Mauritius, Micronesia, Namibia, Nigeria, Palau, Papua New Guinea, Peru, the Philippines, the Russian Federation, Sierra Leone, South Africa, Sri Lanka, Suriname, Thailand, Tonga, Trinidad and Tobago, Tunisia and Viet Nam. The Voluntary Trust Fund is designed to help developing States that are members of the Legal and Technical Commission and the Finance Committee to participate in their meetings.

The draft resolution before the Assembly attaches great importance to capacity-building. In that regard, I would like to note the approximately 90 training opportunities that should arise as a result of contracts for exploration that have been issued since 2011. That number could reach 130 as a result of the remaining contracts for exploration to be concluded next year. It does not include the training opportunities that would arise from the extension of contracts for exploration

in 2016 and 2017. I take this opportunity to call on Member States to assist the Authority in disseminating information on available training opportunities, so that no training opportunity is lost and capacity-building needs are matched with the opportunities.

As recognized in paragraph 69 of the draft resolution, the Authority has demonstrated the importance it attaches to raising awareness of its work by organizing sensitization seminars. I would like to express my gratitude and thanks to the Governments of South Africa and Chile for hosting the tenth and eleventh seminars this year. It is expected that a sensitization seminar will be convened in Accra in 2016.

In conclusion, I wish to emphasize that the Authority is getting closer and closer to realizing the unique regime of the common heritage of mankind. At this critical juncture, it is essential that all members of the Authority attend meetings and contribute to that realization, which concerns future generations as well as current ones. The Authority's legacy will depend on the contributions of all its members. At its next session, it will elect half of the members of its Council for the period 2017 to 2020; a Secretary-General; and members of the Legal and Technical Commission and the Finance Committee. It will also adopt a budget for the period 2017-2018. I therefore encourage the widest possible participation by all members at the Authority's twenty-second session, to be held in July 2016.

I wish everyone here a merry Christmas and a happy new year.

The Acting President: In accordance with General Assembly resolution 51/204, of 17 December 1996, I now call on Mr. Vladimir Golitsyn, President of the International Tribunal for the Law of the Sea.

Mr. Golitsyn (International Tribunal for the Law of the Sea): On behalf of the International Tribunal for the Law of the Sea, I would like to say what an honour it is to address the General Assembly this year, which marks the seventieth anniversary of the United Nations, and to speak on the agenda item 79, "Oceans and the law of the sea". I will first make some remarks concerning the organization of the Tribunal, and then will turn to a consideration of the contribution the Tribunal makes to the peaceful settlement of disputes relating to the law of the sea, focusing on its most recent decisions.

With regard to organizational matters, I would like to inform the Assembly that on 18 May Judge Vicente

Marotta Rangel from Brazil resigned as a member of the Tribunal, creating a vacancy on the Tribunal's bench for the remainder of his nine-year term, which ends on 30 September 2017. On 1 October, the Registrar of the Tribunal circulated a note verbale announcing that the election to fill the vacancy for the remainder of the term would be held on 15 January 2016. The documents concerning the election have been circulated to States parties as documents of the meetings of States parties to the United Nations Convention on the Law of the Sea (UNCLOS), to which I will refer from now on as the Convention.

The Tribunal's judicial activity continued to increase in 2015. On 2 April, the Tribunal delivered its first advisory opinion on a case concerning illegal, unreported and unregulated (IUU) fishing. In addition, on 25 April the Special Chamber of the Tribunal formed to deal with the dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean adopted an order prescribing provisional measures. Finally, on 24 August, the Tribunal issued an order prescribing provisional measures regarding the dispute between Italy and India concerning the *Enrica Lexie* incident. Through its decisions, the Tribunal made further contributions to the peaceful settlement of disputes and the development of the law of the sea. I will now speak briefly about each of the cases.

As indicated in my statement to the Assembly last year (see A/69/PV.67), the Subregional Fisheries Commission (SRFC), a regional fisheries organization composed of seven West African States — Cabo Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone — submitted a request for an advisory opinion to the Tribunal in March 2013. The request posed four questions to the Tribunal concerning IUU fishing, to which the Tribunal provided answers in its advisory opinion of 2 April.

The first question asked the Tribunal to determine the obligations of the flag State in cases where illegal, unreported and unregulated fishing activities are conducted within the exclusive economic zones of third-party States. The Tribunal first clarified the scope of application of the question by stating that it related to the obligations of flag States that are not members of the SRFC where vessels flying their flag are engaged in IUU fishing within the exclusive economic zones of SRFC member States. The Tribunal underlined that under the Convention, responsibility for

the conservation and management of living resources in an exclusive economic zone rests with the coastal State concerned, which therefore has the primary responsibility for taking the necessary measures to prevent, deter and eliminate IUU fishing. The Tribunal emphasized, however, that this responsibility of the coastal State does not release other States from their obligations in that regard.

The Tribunal then turned its attention to the issue of flag State responsibility for IUU fishing, noting that this matter is not directly addressed in the Convention. The Tribunal therefore proceeded to examine the relevant provisions of the Convention dealing with flag State obligations in the context of the conservation and management of living resources. It found that flag States have a specific duty to take the necessary measures to ensure that their nationals and vessels flying their flag are not engaged in IUU fishing activities. It further explained that, pursuant to paragraph 3 of article 58 and paragraph 4 of article 62 of the Convention, the flag State has the responsibility to ensure compliance by vessels flying its flag with the laws and regulations concerning conservation and management measures adopted by the coastal State. In order to meet that responsibility, the flag State must take the necessary measures, including those of enforcement, as well as effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag, in accordance with paragraph 1 of article 94 of the Convention. The Tribunal emphasized that the obligation of a flag State to ensure that vessels flying its flag are not involved in IUU fishing is an obligation of conduct, which is a due diligence obligation, not an obligation of result.

The second question before the Tribunal concerned the liability of the flag State for IUU fishing activities conducted by vessels flying its flag. To respond to that question, the Tribunal found guidance in the draft articles of the International Law Commission on responsibility of States for internationally wrongful acts, observing that articles 1 and 2 and paragraph 1 of 31 consisted of the rules of general international law relevant to the second question.

Capitalizing on the approach taken by the Seabed Disputes Chamber in its first advisory opinion, the Tribunal concluded that the liability of the flag State does not arise from a failure of vessels flying its flag to comply with the laws and regulations of the SRFC States members concerning IUU fishing activities in their exclusive economic zones, as the violation of such

laws and regulations by vessels is not per se attributable to the flag State. At the same time, the Tribunal clarified that the liability of the flag State arises from its failure to comply with its due diligence obligations concerning IUU fishing activities conducted by vessels flying its flag in the exclusive economic zones of the SRFC States members. The Tribunal underlined that the flag State is not liable if it has taken all necessary and appropriate measures to meet its due diligence obligations.

In the third question, the Tribunal was requested to assess whether, in the case of a fishing licence issued to a vessel within the framework of an international agreement with an international agency, the international agency or flag State would be liable for the violation of the fisheries legislation of the coastal State by the vessel in question. The Tribunal observed that the question involved the issue of liability of international organizations and that the organizations concerned were those to which their member States had transferred competence in matters concerning fisheries. In the case before it, the organization in question was the European Union.

The Tribunal stated that in cases where such an organization concludes a fisheries access agreement with an SRFC State member that provides for access by vessels flying the flag of a member State of that organization to fish in the exclusive economic zone of the SRFC State member, the obligations of the flag State become the obligations of the international organization. Therefore, the organization is required to ensure that vessels flying the flag of a member State comply with the fisheries laws and regulations of the SRFC State member and do not conduct IUU fishing activities within the exclusive economic zone of that State. According to the Tribunal, only the international organization, and not its member States, may be held liable for breach of its obligations. Therefore, if the international organization does not meet its due diligence obligations, the SRFC State member may hold the organization liable for the violation.

In response to the fourth question related to the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, the Tribunal enumerated a number of obligations borne by SRFC member States, in particular: the obligation to cooperate with the competent international organizations to ensure, through proper conservation and management measures, that the maintenance of the shared stocks

in the exclusive economic zone is not endangered by overexploitation; the obligation to seek to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks and in relation to tuna species; and, finally, the obligation to cooperate directly or through the SRFC with a view to ensuring conservation and promoting the objective of optimum utilization of such species in their exclusive economic zones. I wish to point out that while it is true that the advisory opinion was limited to the exclusive economic zone of the SRFC member States, it may also be of value to those seeking legal guidance in pursuing their efforts to deter IUU fishing.

Other examples of important pronouncements made by the Tribunal can be found in two recent cases on requests for the prescription of provisional measures. I will first address the request for the prescription of provisional measures filed by Côte d'Ivoire on 27 February, regarding *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*. That case is pending before a Special Chamber of the Tribunal. In that regard, allow me to recall that, further to consultations which I held in December 2014 with representatives of Ghana and Côte d'Ivoire, the parties concluded a special agreement to submit their dispute to a special chamber constituted pursuant to paragraph 2 of article 15 of the Statute of the Tribunal.

Following my consultations with the parties, the Tribunal, by an order of 12 January, formed the Special Chamber, which is made up of five judges, including two judges ad hoc — one chosen by Ghana and one by Côte d'Ivoire. In its request, Côte d'Ivoire asked the Special Chamber to prescribe provisional measures requiring Ghana to, inter alia, take all steps to suspend all ongoing oil exploration and exploitation operations in the disputed area. Ghana requested the Special Chamber to deny all of Côte d'Ivoire's requests for provisional measures. The Special Chamber delivered its order on 25 April. In its order, the Special Chamber observed that it may not prescribe provisional measures unless it finds that there is a real and imminent risk that irreparable prejudice may be caused to the rights of the parties in dispute.

Concerning the rights that Côte d'Ivoire claimed on the merits and sought to protect, the Special Chamber stated that before prescribing provisional measures, it need only to satisfy itself that those rights are at least plausible, and concluded that Côte d'Ivoire had

presented enough material to show that those rights in the disputed area were plausible. The Special Chamber therefore found that the exploration and exploitation activities planned by Ghana may cause irreparable prejudice to the sovereign and exclusive rights invoked by Côte d'Ivoire in the continental shelf and superjacent waters of the disputed area before a decision on the merits is given by the Special Chamber, and that the risk of such prejudice is imminent.

The Special Chamber found that the suspension of ongoing activities conducted by Ghana in respect of which drilling had already taken place would entail the risk of considerable financial loss to Ghana and its concessionaires and could also pose a serious danger to the marine environment. The Special Chamber therefore considered that an order suspending all exploration or exploitation activities conducted by or on behalf of Ghana in the disputed area, including activities in respect of which drilling had already taken place, would cause prejudice to the rights claimed by Ghana and create an undue burden on it and that such an order could also cause harm to the marine environment.

In order to preserve the rights of Côte d'Ivoire, the Special Chamber decided to order Ghana to take all necessary steps to ensure that no new drilling, either by Ghana or under its control, took place in the disputed area. The Special Chamber also requested each party to submit a report and information on compliance with the provisional measures prescribed, which each party did on 25 May.

A further request for the prescription of provisional measures was submitted on 21 July by Italy with regard to its dispute with India in the case concerning *The "Enrica Lexie" Incident (Italy v. India), Provisional Measures*. Before then, on 26 June, Italy had instituted arbitral proceedings against India under annex VII of the Convention in respect of this dispute. The provisional measures request was therefore made under paragraph 5 of article 290 of the Convention, pending the constitution of the arbitral tribunal.

According to Italy, the dispute concerned an incident that occurred on 15 February 2012, at approximately 20.5 nautical miles off the coast of India, involving the *MV Enrica Lexie*, an oil tanker flying the Italian flag. In India's subsequent exercise of jurisdiction over the incident and over two Italian marines from the Italian Navy who were on official duty aboard the *Enrica Lexie* at the time of the incident, India maintained that

the incident arose from the killing of two innocent Indian fishermen aboard an Indian fishing vessel, the *Saint Antony*, which on 15 February 2012 was engaged in fishing at a distance of about 20.5 nautical miles from the Indian coast. India further maintained that it envisages exercising jurisdiction over the marines.

Italy requested the Tribunal to prescribe the following provisional measures. India shall refrain from taking or enforcing any judicial or administrative measures against Sergeant Latorre and Sergeant Girone in connection with the *Enrica Lexie* incident and from exercising any other form of jurisdiction over the *Enrica Lexie* incident. And India shall take all measures necessary to ensure that restrictions on the liberty, security and movement of the marines be immediately lifted so as to enable Sergeant Girone to travel to and remain in Italy and Sergeant Latorre to remain in Italy throughout the duration of the proceedings before the annex VII tribunal. India requested the Tribunal to reject the submissions made by the Republic of Italy in its request for the prescription of provisional measures and to refuse prescription of any provisional measures in the present case.

The Tribunal delivered its order on 25 August. In the order, the Tribunal found that a dispute appeared to exist between the parties concerning the interpretation or application of the Convention and that the annex VII arbitral tribunal would *prima facie* have jurisdiction over the dispute. The Tribunal pointed out that, in provisional measures proceedings, it is not called upon to settle the claims of the parties in respect of the rights and obligations in dispute and to establish definitively the existence of the rights that they each seek to protect. It noted that it needs only to satisfy itself that those rights are at least plausible. In this respect, the Tribunal found that, in the case before it, both parties had sufficiently demonstrated that the rights they sought to protect regarding the *Enrica Lexie* incident were plausible.

The Tribunal observed that, under paragraph 1 of article 290, it may prescribe any provisional measures that it considers appropriate in the circumstances to preserve the respective rights of the parties, which implies that there is a real and imminent risk that irreparable prejudice could be caused to the rights of the parties to the dispute, pending such a time when the annex VII arbitral tribunal is in a position to modify, revoke or affirm the provisional measures. With regard to the case before it, the Tribunal considered that, in

the circumstances, continuation of court proceedings or initiation of new ones by either party would prejudice rights of the other party. It concluded that this consideration requires action on the part of the Tribunal to ensure that the respective rights of the parties are duly preserved.

The Tribunal therefore prescribed as a provisional measure that Italy and India should both suspend all court proceedings and refrain from initiating new ones that might aggravate or extend the dispute submitted to the annex VII arbitral tribunal or might jeopardize or prejudice the carrying out of any decision that the arbitral tribunal may render. Pursuant to the order of the Tribunal, India and Italy each submitted a report, on 18 and 23 September, respectively, on compliance with the provisional measures prescribed.

This brief overview of the Tribunal's recent judicial work shows that States increasingly bring cases concerning their disputes to the Tribunal. The Tribunal's jurisprudence clearly demonstrates its potential, and the Tribunal is committed to further facilitating access to its procedures.

I am pleased to inform the Assembly that, in line with this commitment, a joint declaration was signed on 31 August between the Tribunal and the Ministry of Law of the Republic of Singapore. In the declaration, both sides agree that if the Chamber or the Tribunal finds it desirable in a case before it to sit or exercise its functions in Singapore, the Government of Singapore will provide appropriate facilities. I wish to reiterate my gratitude to the Singaporean Government for its willingness to assist the Tribunal in this respect.

As the Assembly knows, the Tribunal is active in disseminating knowledge about the mechanisms for dispute settlement established by the Convention and the procedures applicable to cases before the Tribunal. It does so by, among other activities, organizing regional workshops in different parts of the world and conducting capacity-building programmes at its premises in Hamburg. The most recent regional workshop, the eleventh so far, was held on 27 and 28 August in Bali, Indonesia. It was organized with the assistance of the Korea Maritime Institute and in cooperation with the Ministry of Foreign Affairs of the Republic of Indonesia. I wish to express my sincere gratitude to both the Ministry of Foreign Affairs of Indonesia and the Korea Maritime Institute for their generosity and excellent cooperation. Representatives of

14 States from the region attended the workshop, which was preceded by a seminar on maritime delimitation and fisheries cooperation.

Through its internship programme, the Tribunal provides training opportunities to young Government officials and university students. Since the establishment of the programme in 1997, 310 interns from 94 countries have profited from this opportunity. Scholarships to support interns from developing countries are paid from a trust fund set up by the Tribunal that has received grants from several donors, including the Korea Maritime Institute, to which I wish to convey my gratitude once again.

Finally, the Nippon programme is a capacity-building and training programme on dispute settlement, designed to provide Government officials and researchers with advanced legal training in international dispute settlement in law of the sea matters. The programme was established in 2007 and has been running since then with the ongoing support of the Nippon Foundation of Japan. I wish to take this opportunity to express my gratitude to the Nippon Foundation for its generosity.

Before concluding my remarks, I wish to highlight that the coming year, 2016, marks the twentieth anniversary of the Tribunal, which, as members know, was officially inaugurated on 18 October 1996. We plan to commemorate the anniversary with a number of events. The main event of the year will be a commemorative ceremony to be held in Hamburg on 5 October 2016. It will be followed on 6 and 7 October by a symposium on UNCLOS and the Tribunal's contribution to international dispute settlement. In addition, a side event will be held during the Meeting of States Parties in June 2016. These events will be an occasion to review the development of the work of the Tribunal since its early days and will also set the scene for the Tribunal's way into the future. A more detailed programme of the anniversary celebrations is currently being prepared. Invitations will of course be addressed to all States parties to the Convention.

I am grateful for the opportunity to address the General Assembly and for its interest in the Tribunal's work. I also wish to seize this occasion to express my gratitude to the Director of the Division for Ocean Affairs and the Law of the Sea and her staff for their continued and excellent cooperation and assistance.

The Acting President: In relation to draft resolution A/70/L.22, I should like to inform members that the Assembly will be in the position to take action on the draft resolution after the Fifth Committee has considered its programme budgetary implications.

The Assembly will now take action on draft resolution A/70/L.19, entitled “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”.

I give the floor to the representative of the Secretariat.

Mr. Zhang Saijin (Department for General Assembly and Conference Management): I should like to announce that since the submission of the draft resolution and in addition to those delegations listed in the draft document, the following countries have become sponsors of A/70/L.19: Australia, Costa Rica, Denmark, Greece, Indonesia, Italy, Jamaica, Maldives, the Philippines, Portugal and the United States of America.

The Acting President: May I take it that it is the wish of the Assembly to adopt draft resolution A/70/L.19?

Draft resolution A/70/L.19 was adopted (resolution 70/75).

The Acting President: Before giving the floor to delegations that wish to explain their position on the resolution just adopted, may I remind Assembly members that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Fernandez Valoni (Argentina) (*spoke in Spanish*): We wish to speak in explanation of position on resolution 70/75, on sustainable fisheries.

Argentina joined the consensus on the resolution. However, we wish to inform the Assembly once again that none of the recommendations in the resolution can be interpreted to mean that the provisions of 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, and related instruments, which was adopted in New York in 1995, can be considered mandatory for States that have not clearly expressed their consent or commitment to the Agreement.

The resolution that we have just adopted contains paragraphs concerning the implementation of the recommendations of the Review Conference on the Agreement. Argentina reiterates that those recommendations must be considered not as enforceable, but merely as recommendations to those States that are not parties to the Agreement. Moreover, that is particularly important for those States, such as Argentina, that have disassociated themselves from the recommendations. Therefore, as in previous sessions, Argentina disassociates itself from the consensus of the Assembly with respect to the paragraphs of the resolution that refer to the recommendations of the Review Conference on the 1995 Agreement.

In addition, Argentina notes that current international law does not authorize regional fisheries management organizations and arrangements, or their member States, to take any measure with respect to vessels whose flag State is not a member of such an organization or arrangement, or that have not explicitly consented to the application of such measures to vessels flying their flags. Nothing in the General Assembly’s resolutions, including that which we have just adopted, can be interpreted as contrary to that conclusion.

Moreover, I recall once again that in the implementation of conservation measures, the conduct of scientific research or the undertaking of any other activity recommended in the resolutions of the General Assembly, in particular resolution 61/105 and related instruments, the legal framework provided by the international law of the sea in force — as reflected in the Convention, including in article 77 and Part XIII — must be strictly respected. The implementation of the resolutions cannot therefore be used as a pretext or justification for ignoring or violating the rights established in the Convention, and nothing in resolution 61/105 or in other resolutions of the General Assembly prejudices the sovereign rights of coastal States over their continental shelf or the exercise of the jurisdiction of coastal States with respect to their continental shelf under international law. Paragraph 164 of the resolution we have just adopted contains a pertinent reminder of that concept, which has already been reflected in resolution 64/72 and subsequent resolutions. In the same vein, and as at previous sessions, paragraph 165 notes

the adoption by coastal States of conservation measures regarding their continental shelf to address the impacts of bottom fishing on vulnerable marine ecosystems, as well as their efforts to ensure compliance with those measures.

Finally, I should like to alert the Assembly once again that the growing differences of opinion regarding the content of the resolution on sustainable fisheries seriously jeopardize the likelihood of such texts being adopted by consensus at future sessions.

Mr. Medina Mejías (Bolivarian Republic of Venezuela) (*spoke in Spanish*): On behalf of my delegation, I take this opportunity to thank the Secretary-General of the International Seabed Authority and the President of the International Tribunal for the Law of the Sea for participating in this meeting. We extend our gratitude to the representative of New Zealand, Ms. Alice Revell, for facilitating the negotiations on resolution 70/75, entitled “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”, to which I refer in this explanation of position.

Venezuela underscores its commitment to sustainable fisheries by implementing the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations and chapter 17 of Agenda 21, adopted at the United Nations Conference on Environment and Development in 1992. Venezuela is also party to various international instruments for the conservation and management of fisheries.

The Bolivarian Republic of Venezuela has consistently expressed its position in various international forums that the United Nations Convention on the Law of the Sea (UNCLOS) should not be considered as the sole legal framework governing activities on the oceans and seas, given the existence of other international instruments on that topic which, together with UNCLOS, constitute the body of laws known as the law of the sea. In that regard, it has been Venezuela’s consistent and long-standing position to object to the possibility of the Convention being invoked under conventional or customary law. The Venezuelan delegation has also pointed out many times that UNCLOS does not have universal participation; to date, it has 162 States parties,

unlike many other multilateral instruments such as the Convention on Biological Diversity, which currently has 193 States parties.

The Venezuelan law on fisheries prohibits bottom fishing and establishes a sanctions regime for cases of non-compliance with conservation and management measures, which also include the control of vessels that fly the national flag and engage in fishing activities. We also have a system of inspection and monitoring of operations on the high seas through which relevant information is transmitted to the fisheries management entity. This gives us the exact geographic location where the fishing is taking place which helps in turn to ensure compliance with the norms established by law. It is also important to highlight that Venezuela makes contributions in its national capacity to the drafting of a legally binding instrument on port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing. These contributions were made in the technical consultations that were held in the framework of the Food and Agriculture Organization of the United Nations.

Finally, in the interests of consensus, our delegation joined in adopting resolution 70/75. Nevertheless, Venezuela expresses explicit reservations with regard to the content of the resolution because it is not a party to the United Nations Convention on the Law of the Sea or 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. As such, the norms of international instruments under customary international law are not applicable, except where the Republic has explicitly recognized or will explicitly recognize them by incorporating them into its national legislation.

Mr. Erciyes (Turkey): With regard to resolution 70/75, on sustainable fisheries, I would like to state that Turkey is fully committed to the conservation, management and sustainable use of marine living resources and attaches great importance to regional cooperation to that end. Accordingly, Turkey supported the resolution. However, Turkey dissociates itself from references made in the resolution to international instruments to which it is not a party. Those references should not therefore be interpreted as a change in Turkey’s legal position with regard to those instruments.

Mr. Morales López (Colombia) (*spoke in Spanish*): My delegation would like to make a statement following the adoption by consensus of resolution 70/75, on sustainable fisheries and pertaining to 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.

We acknowledge the valuable contribution made by the sustainable fisheries resolution. Nevertheless, the resolution is formulated on the basis of the United Nations Convention on the Law of the Sea of 10 December 1982, to which Colombia is not a party. Therefore, and as we have expressed on repeated occasions, the Republic of Colombia states that the present resolution and Colombia's participation in the process of its adoption cannot be considered or interpreted in any way that binds us under any provisions of the Convention.

The constructive spirit that prevails in our country with regard to sustainable fisheries is based on the fact that we believe that all States Members of the United Nations have a role to play in a sustainable future for our world. My country has a new institutional framework with regard to marine and coastal matters and a new comprehensive vision in which the seas, their coasts and resources will play a fundamental role in the new direction of the country towards building not only a sustainable country but also sustainable fisheries at the global level, in compliance with our international commitments in the environmental field.

The Acting President: We have heard the last speaker in explanation of position.

Several representatives have asked to speak in exercise of the right of reply. May I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second intervention and should be made by delegations from their seats.

Ms. Yparraguirre (Philippines): The Philippines would like to exercise its right of reply to the statement made earlier by the representative of China.

To quote our Secretary of the Department of Foreign Affairs, Mr. Albert del Rosario, in his concluding remarks on 30 November 2015 before the Permanent Court of Arbitration in The Hague in the last round of oral hearings of our arbitration case,

“the 29 October Award on Jurisdiction [and Admissibility] ... is a compelling rebuke to those who doubt that international justice does exist and will prevail”.

The Arbitral Tribunal decided in its Award of 29 October that it has jurisdiction to hear the case and that China would be legally bound to comply with its decision. The Tribunal has again given China the opportunity to comment in writing until 1 January 2016 on anything said during the recent hearing on the merits or submitted in writing subsequently by the Philippines. The Tribunal also found that the Philippines' act of initiating the arbitration did not constitute an abuse of process, contrary to the statement made earlier by China.

The core issue in maritime disputes in the South China Sea is China's claim of indisputable sovereignty over 90 per cent of the South China Sea as enclosed by its so-called nine-dash line, which has no basis in international law, and claims sovereignty over the exclusive economic zones (EEZ) of neighbouring coastal States, such as the Philippines. The world cannot allow a country, no matter how powerful, to claim an entire sea as its own, nor should it allow coercion to be an acceptable dispute-settlement mechanism. Under the current circumstances, the Philippines is not able to exercise its rights to fish in its traditional fishing grounds and exploit the natural resources in its EEZ. The Philippines has become unable to enforce its laws within its EEZ, which is its right under the United Nations Convention on the Law of the Sea (UNCLOS), the world's constitution for oceans and the seas.

This dispute is not a bilateral dispute, however. Aside from the Philippines and China, it involves three or four other parties. But even if it were granted, for the sake of argument, that the dispute was limited to only the Philippines and China, before initiating arbitration under article 7 of UNCLOS, the Philippines has bilaterally engaged with China in over 50 instances over the past two decades, even before China seized Subi Reef in 1988 and Mischief Reef in 1995 from the Philippines.

Negotiations presupposed the willingness of the parties to compromise. Regrettably, this failed to produce mutually satisfactory results since China's starting point has always been that it has indisputable sovereignty over almost all of the South China Sea through its so-called nine-dash line. This is an

excessive and expansive claim, which does not have legitimacy under international law and has rendered negotiations impossible. That is the crux of this long-standing problem.

The Declaration on the Conduct of Parties in the South China Sea of the Association of Southeast Asian Nations (ASEAN) is not a bar to the arbitration proceedings, as was ruled by the Arbitral Tribunal in its award of 29 October. In paragraph 335 of the award, the Tribunal added that, in any event, the ASEAN Declaration on the Conduct of Parties itself,

“along with discussions on the creation of a further Code of Conduct, represents an exchange of views on the means of settling the Parties’ dispute”,

thereby thus satisfying the obligation of having an exchange of views under articles 281 and 283 of UNCLOS.

With respect to the latest developments in ASEAN, in the Chairman’s statement of 21 November 2015, following the twenty-seventh ASEAN summit in Kuala Lumpur and the ASEAN-China summit, the ASEAN leaders expressed concern on the militarization taking place in the South China Sea and urged all parties to ensure the maintenance of peace, security and stability. They urged the exercise of self-restraint, avoidance of actions that would escalate tension and the non-recourse to the threat or use of force. The ASEAN leaders underscored their commitment to the ASEAN Declaration on the Conduct of Parties and the expeditious establishment of an effective code of conduct. Finally, they emphasized the importance for the States concerned of resolving their differences and disputes through peaceful means in accordance with international law, including the United Nations Convention on the Law of the Sea.

In conclusion, to reiterate, the Arbitral Tribunal constituted under annex VII to UNCLOS, pursuant to a request by the Philippines found, in its 29 October Award, that it has jurisdiction to hear the Philippines’ case. Last 30 November, the Tribunal concluded its hearings on the merits phase. The parties have until 9 December to review and submit corrections to the transcripts of the hearings, which will subsequently be published on the website of the Permanent Court of Arbitration. In line with the Tribunal’s duty to assure each party a full opportunity to be heard and to present its case, the Tribunal has given China until 1 January 2016 the opportunity to comment in writing on anything

said during the hearing or subsequently submitted in writing by the Philippines. We invite China to avail itself of its opportunity.

In his concluding remarks before the Permanent Court of Arbitration at The Hague, which I mentioned previously, Secretary for Foreign Affairs Albert del Rosario said that the Philippines is confident that the Tribunal

“will interpret and apply the law in a way that produces a truly just solution. That is the best way — indeed the only way — to craft a legal solution that truly promotes peace, security and good-neighbourliness in the South China Sea”.

Mr. Li Yongsheng (China): We regret that the Philippines is insisting on abusing this United Nations forum to advance its so-called arbitration on the South China Sea, which it unilaterally initiated. The Philippines’ unilateral initiation and obstinate pushing forward of the South China Sea arbitration by abusing the compulsory procedures for dispute settlement under the United Nations Convention on the Law of the Sea (UNCLOS) is a political provocation under the cloak of law. In essence, it is not an effort to settle disputes but an attempt to negate China’s territorial sovereignty, maritime rights and interests in the South China Sea.

In the position paper of the Government of the People’s Republic of China on the matter of jurisdiction in the South China Sea arbitration initiated by the Republic of the Philippines, which was released by the Chinese Ministry for Foreign Affairs on 7 December 2014, upon authorization, the Chinese Government pointed out that the Arbitral Tribunal has manifestly no jurisdiction over the arbitration initiated by the Philippines and elaborated on the legal grounds for China’s non-acceptance of and non-participation in the arbitration. This position is clear and explicit and will not change.

As a sovereign State and a State party to UNCLOS, China is entitled to choose the means and procedures of dispute settlement of its own will. All along, China has been committed to resolving disputes with the Philippines over territorial and maritime jurisdiction through negotiations and consultations. Since the 1990s, China and the Philippines have repeatedly reaffirmed in bilateral documents that they shall resolve relevant disputes through negotiations and consultations. The Declaration on the Conduct of Parties in the South China Sea explicitly states that the sovereign States

directly concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means through friendly consultations and negotiations. All these documents demonstrate that China and the Philippines chose a long time ago to settle their disputes in the South China Sea through negotiations and consultations.

The breach of this agreement by the Philippines damages the basis of mutual trust between States. It disregards the essence of this arbitration case, namely, territorial sovereignty, maritime delimitation and related matters. It maliciously evades China's declaration on optional exceptions made in 2006 under article 298 of UNCLOS and negates the agreement between China and the Philippines on resolving relevant disputes through negotiations and consultations. The Philippines has abused relevant procedures and obstinately forged ahead with the arbitration and as a result has seriously violated the legitimate rights that China enjoys as a State party to UNCLOS, completely deviated from the purposes and objectives of UNCLOS and eroded the integrity and authority of the Convention. As a State party to UNCLOS, China firmly opposes the acts of abusing compulsory procedures for dispute settlement under UNCLOS and calls upon all parties concerned to work together to safeguard the integrity and authority of the Convention.

The arbitration unilaterally initiated is not about the interpretation and application of UNCLOS. In fact, the Philippines itself also treats this dispute as one of sovereignty over territory deep in its heart. For example, the day after the initiation of the arbitral proceedings, a document of the Philippines Department of Foreign Affairs entitled "Q & A on the UNCLOS Arbitral Proceedings against China to Achieve a Peaceful and Durable Solution to the Dispute in the West Philippine Sea", dated 23 January 2013, described the purpose of the case as "to protect our national territory and maritime domain" or "to defend the Philippine territory and maritime domain". It also stated that

"[a]t this stage, the legal track presents the most durable option to defend the national interest and territory on the basis of international law".

The Philippines Senate subsequently passed a resolution supporting the arbitration stating that "the Philippines is left with no other option than to protect the Philippines' territorial integrity and sovereign rights". The Philippine Under-Secretary of Foreign Affairs stated that "the areas under dispute are legally

the territory of the Philippines as guaranteed by international law". All these references to territory or territorial integrity testify to the territorial essence of the claims presented by the Philippines in its notification of dispute to the Arbitral Tribunal convened under UNCLOS, which clearly has no jurisdiction over the matter.

Ms. Yparraguirre (Philippines): With regard to the United Nations forum, it may be said that the General Assembly may discuss any question or matter within the scope of the Charter of the United Nations, including the peaceful settlement of disputes. What is more, world leaders from our region and beyond have expressed serious concern over the developments in the South China Sea in various forums, including the United Nations.

I would like to reiterate that the Arbitral Tribunal decided in its award of 29 October that it has jurisdiction to hear the case and that China would be legally bound to comply with its decision. Moreover, the Tribunal also found that the Philippines' act of initiating the arbitration process did not constitute an abuse of process, contrary to the statement made earlier by the representative of China. The Tribunal also found that the 2002 China-Association of Southeast Asian Nations Declaration on the Conduct of Parties in the South China Sea, and other international agreements such as the Convention on Biological Diversity, do not, under articles 281 or 282 of the Convention, preclude recourse to compulsory dispute-settlement procedures available under section 2 of Part XV of the Convention.

In this dispute, China has always invoked historic rights in the same breath as international law. Its nine-dash line claim is supposed to be anchored in historic rights. However, there is nothing historic or right about China's nine-dash line claim. In paragraph 160 of its award on 29 October, the Arbitral Tribunal states that China has not clarified the nature or scope of its claimed historic rights nor its own understanding of the meaning of its own nine-dash line set out on the map accompanying its notes verbales of 7 May 2009; nor has China expressed a view on the status of particular maritime features in the South China Sea.

There is no overlapping territorial sea between the Philippines and China. There is also no overlapping exclusive economic zone (EEZ) between the Philippines and China. The arbitration case is not about territorial jurisdiction or maritime boundaries delimitation but

a maritime dispute involving the interpretation or application of UNCLOS, namely, whether the waters enclosed by China's nine-dash line claim over the South China Sea can encroach on the 200-nautical-mile EEZ of the Philippines. That is the fundamental issue.

Arbitration is an open, friendly, durable and rules-based dispute-settlement mechanism. We believe that it will serve to clarify maritime entitlements of all littoral States in the South China Sea, paving the way for a resolution to the dispute, in accordance with international law, particularly UNCLOS. We remain open to China's constructive participation in the arbitration process.

Mr. Li Yongsheng (China): There is still no delimitation between China and the Philippines over the maritime area, so I seriously challenge the conclusion that the representative of the Philippines has drawn just now that there is no overlapping maritime area between the two countries.

The Arbitral Tribunal has no jurisdiction under paragraph 1 of article 288 of the United Nations Convention on the Law of the Sea (UNCLOS), as the dispute is not one concerning the interpretation or application of the Convention. More specifically, the Tribunal does not have jurisdiction *ratione temporis* over the dispute, which had arisen before the entry into force of UNCLOS with respect to China in 1996. The Tribunal does not have jurisdiction over this dispute because its resolution would constitute a decision on the sovereignty over many islands or insular features or would necessarily involve the concurrent consideration of unsettled disputes concerning sovereignty or other rights over these islands or insular features.

The Tribunal has no jurisdiction over certain claims relating to the sovereignty over or definition of status of

certain submerged features or whether they are subject to appropriation because they either do not constitute disputes concerning the interpretation or application of UNCLOS or are consequential upon the resolution of a land-territory issue over which the Tribunal has no jurisdiction. The Tribunal has no jurisdiction over certain claims relating to the definition of the status of certain rocks because these claims relate to sovereignty over this insular-land territory and they either do not constitute disputes concerning the interpretation or application of UNCLOS or are consequential upon the resolution of a sovereignty issue over which the Tribunal has no jurisdiction.

To the extent that the Philippines' understanding is meaningful with regard to the interpretation of the scope of paragraph 1 of article 288, to which it became subject when the Philippines ratified UNCLOS in 1984, it reinforces the position that disputes relating to sovereignty over continental or insular-land territory are outside the jurisdiction of a Section 2 Court or Tribunal. In addition, I would repeat that, under paragraph 1 (a) of article 298, the Tribunal has no jurisdiction over this case because the disputes or claims presented by the Philippines have been excluded by China's 2006 declaration or by the Philippines' understanding.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of sub-item (b) of agenda item 79?

It was so decided.

The Acting President: The Assembly has thus concluded this stage of its consideration of sub-item (a) of agenda item 79 and of agenda item 79 as a whole.

The meeting rose at 5 p.m.