A Review of the 2004 General Assembly Discussions on the Law of the Sea*

The annual debate on “Oceans and the Law of the Sea” (item 49 (a) and (b) of the Agenda) took place in the General Assembly on November 16 and 17, 2004. It was a joint debate on sub items:


The day the debate commenced, November 16, coincided with the 10th anniversary of the entry into force of the 1982 Law of the Sea Convention, an event marked by a ceremonial session in Kingston, Jamaica, ten years earlier where I had the privilege of participating and speaking as the head of the Cyprus delegation (text attached Annex I).

Many of the delegates who participated in the General Assembly’s debate highlighted the importance of the anniversary. For example, the delegate from the Netherlands, speaking for the European Union, stressed that the Convention and its implementing Agreement were milestones in the efforts to manage the planet’s ocean affairs. Looking back on the achievements of the Third United Nations Conference on the Law of the Sea, he said that not only did the Convention deal with a wide variety of issues, but its text proved flexible enough to address problems that had emerged during the decade since it entered into force. The two integrated documents proved to be useful

tools for the governance of the world oceans, they stood the test of time and there was no need for additional provisions at the time.

The debate, which carried on to a second day, November 17, was entered by some 40 delegations that included the Prime Minister of Norway, the Minister of Fisheries and Oceans of Canada, the representative from Brazil speaking for the Rio Group, the representative from the Netherlands speaking on behalf of the European Union, the representative from Barbados speaking for the Caribbean Community (CARICOM), and the representative from Samoa speaking for the Pacific Islands Forum. Substantive statements were also made by the Secretary-General of the International Seabed Authority, the President of the International Tribunal for the Law of the Sea and the Observer of the International Union for the Conservation of Nature.

The Omnibus Draft Resolution on Oceans and the Law of the Sea (L.22) was introduced by Brazil and the Draft Resolution on Sustainable Fisheries (L.23) was introduced by the United States. Both had been, as customary, negotiated at informal meetings over a period of several weeks prior to their introduction and each had wide co-sponsorship of member States. While one cannot fail to recognize the variety and complexity of the topics covered in each of these resolutions and the fact that this practice has been followed over the preceding years, one must pause and think about the advisability of continuing the practice in light of the current debate on United Nations reform (doc. A/59/565). Resolution L.22 is 17 pages long and includes 103 operative paragraphs in addition to 19 preambular paragraphs, while Resolution L.23 is 16 pages long and has 84 operative paragraphs and 26 preambular paragraphs. For instance, L.23 devotes two preambular and two operative paragraphs (73 and 74) to the protection of sharks (“recognizing further the economic and cultural importance of sharks in many countries, the biological importance of sharks in the marine ecosystem, the vulnerability of some shark species to over-exploitation… and the International Plan of Action for the Conservation and Management of Sharks” adopted by the FAO in 1999, which was implemented by “only a small number of countries”). While one can readily recognize the relevance of preservation of all God’s creatures and the desirability of not disturbing the balance of nature, can one not reasonably question the emphasis on the “economic and cultural [sic] importance of sharks” and perhaps be reminded (if I could be permitted the flippancy) of the proverbial joke about lawyers being well treated by sharks out of “professional courtesy”?

Topics dealt with during the debate included navigational rights, territorial sea limits, economic jurisdiction, the legal status of seabed resources beyond national jurisdiction, conservation and limits of living marine resources and the protection of the marine environment.