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Seventy-first session

Sixth Committee

Agenda item 74

Responsibility of States for Internationally Wrongful Acts

Introduction of draft resolution A/C.6/71/L.28

Statement by the facilitator, Mr. Patrick Luna (Brazil)

Mr. Chairman,

I have the honour to introduce, on behalf of the Bureau, draft resolution **A/C.6/71/L.28**, entitled “**Responsibility of States for internationally wrongful acts**”.

At the time of my report on the Working Group on responsibility of States for internationally wrongful acts, informal negotiations on the draft resolution were still ongoing. In my report, I noted that an increased number of delegations were in favour of moving towards the negotiation of an international convention on the basis of the articles, while other delegations continued to express concerns regarding a possible convention on State responsibility.

To reconcile these two positions, different versions of a draft resolution were developed and discussed in several rounds of informal consultations.

Consensus emerged eventually for the text of a proposed draft resolution allowing for a continued and informed dialogue on the future of the articles, and deferring consideration of the question of a convention or other appropriate action on the basis of the articles to a future session. This text has been issued as document A/C.6/71/L.28.

While the text of the draft resolution is generally based on General Assembly resolution 68/104 of 16 December 2013, it also includes one new preambular paragraph and three new operative paragraphs. I will briefly go through each paragraph of the draft resolution for the benefit of delegations.

The **first preambular paragraph** recalls resolution 56/83, the annex to which contains the text of the articles, as well as four subsequent resolutions in which the Assembly commended the articles on responsibility of States for internationally wrongful acts to the attention of Governments. The **second preambular paragraph** emphasizes the continuing importance of the codification and progressive development of international law, and the **third preambular paragraph** notes the importance of the subject in the relations between States. In the **fourth preambular paragraph**, the comments and observations of Governments, including those expressed in the debates in the Sixth Committee, are taken into account, and in **preambular paragraph five**, gratitude is expressed to the Secretary-General for the compilation of decisions on the subject. The **sixth preambular paragraph** is a new addition, noting the discussion on whether Member States should examine all procedural regarding possible action on the basis of the articles. Other than technical updates to the first and fourth preambular paragraphs, as well as the footnotes to the fourth and fifth preambular paragraphs, no other changes were made to the preambular paragraphs.

Mr. Chairman,

The draft resolution contains eight operative paragraphs. Operative paragraphs one to three are drawn from corresponding provisions in resolution 68/104. In the **first operative paragraph**, the General Assembly would acknowledge that a growing number of decisions of international courts, tribunals and other bodies refer to the articles. In the **second operative paragraph**, the General Assembly would continue to acknowledge the importance of the articles, and would commend them once again to Governments. In the **third operative paragraph**, the General Assembly would request the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles.

In the **new fourth operative paragraph**, the General Assembly would request the Secretary-General to prepare a technical report during the seventy-first session, which would list, in a tabular format, the references to the articles contained in the compilation of decisions of international courts, tribunals and other bodies referring to the articles prepared since 2001, as well as references to the articles made in submissions presented by Member States before international courts, tribunals and other bodies since 2001. In the **fifth operative paragraph**, which is another addition to the resolution, the General Assembly would acknowledge the possibility of requesting, at the seventy-fourth session, the Secretary-General to provide information on all procedural options regarding possible action on the basis of the articles, without prejudice to the question of whether such possible action is appropriate. In **operative paragraph six**, lifted from resolution 68/104, the Assembly would ask the Secretary-General to update the compilation of decisions, and to submit it well in advance of its seventy-fourth session.

In the **seventh operative paragraph**, another addition to the resolution, the General Assembly would acknowledge the constructive dialogue in the context of the Working Group during the seventy-first session and encourage all Member States to continue the substantive dialogue on an informal basis during the period prior to the seventy-fourth session of the General Assembly.

And in the **eighth operative paragraph**, also taken verbatim from resolution 68/104, with the necessary technical updates, the General Assembly would decide to include the agenda item in the provisional agenda of its seventy-fourth session, and to further examine, within the framework of a working group of the Sixth Committee and with a view to taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

Mr. Chairman,

This concludes my introduction of draft resolution A/C.6/71/L.28, which I commend to the Sixth Committee for adoption by consensus. Allow me to take this opportunity to express my gratitude to the Secretariat, especially to the Codification Division, for the invaluable assistance throughout this process, as well as to thank all delegations for their constructive engagement and flexibility.

Thank you.