



Permanent Mission of
Malaysia
to the United Nations

**STATEMENT BY MR. MUHAMMAD RUSHDAN, REPRESENTATIVE OF MALAYSIA, ON
AGENDA ITEM 82: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE
UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE
ORGANISATION AT THE SIXTH COMMITTEE OF THE 64TH SESSION OF UNITED NATION
GENERAL ASSEMBLY, NEW YORK 19 OCTOBER 2009**

Mr. Chairman,

1. My delegation records its appreciation to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation for its report (A/64/33) submitted for the consideration of the General Assembly at this 64th session. We align ourselves to the statement by the Non-Aligned Movement delivered this morning.

2. Malaysia notes that several long-standing issues remain under the consideration of the Special Committee. On the issue of "Maintenance of international peace and security", this includes proposals to enhance transparency in the implementation of United Nations Security Council targeted sanctions, and to minimise and otherwise address the impact of sanctions through the establishment of a special United Nations fund or compensation scheme.

Mr. Chairman,

3. With regard to the application of sanctions, Malaysia notes with concern the trend to utilise Security Council Resolution (SCR) Chapter VII powers to further other agendas, such as the Proliferation Security Initiative and non-proliferation issues. Malaysia notes that, for example, SCR 1540 now purports to lend Security Council legitimacy to the interdiction of weapons of mass destruction in the high seas which would otherwise contravene the United Nations Convention on the Law of the Sea. Another example of this exercise is the new Security Council Resolution on piracy in Somalia.

4. Malaysia strongly advocates that all Charter and international law criteria are strictly adhered to in the imposition of sanctions in particular, the right of targeted States to be heard beforehand. Malaysia urges States to bear in mind when considering the use of Chapter VII powers, that such powers must be used sparingly and judiciously, in order to refrain from penalising innocent States from unintended consequences of sanctions.

5. Malaysia reiterates that monitoring by the Security Council, directly or through its subsidiary organs should not be done for the purposes of "targeting" of particular States. Under the guise of providing "technical assistance", certain powerful States may conduct arbitrary targeting against other States. In this regard, based on our experiences in implementing certain Security Council resolutions, Malaysia notes the importance of the issuance of

Implementation Guidelines or the provision of an avenue to seek clarification by Member States. Further, it is noted in relation to SCR 1737, 1747 and 1803, that provision is made to deal with non-compliance by implementing States but the consequences have yet to be tested. Therefore, this type of operating procedure needs to be carefully drafted in future to avoid unintended complications and hardship to States.

Mr. Chairman,

6. On the issue of “Peaceful Settlement of Disputes”, there is consensus that peaceful settlement of disputes is a basic principle enshrined in Article 2(3) of the Charter of the United Nations. There is also theoretical recognition that international disputes should be settled by peaceful means, particularly through recourse to the International Court of Justice (ICJ). However, this is barely realised in the current global situation.

7. Malaysia believes in the peaceful settlement of disputes and we have resorted to it particularly in resolving territorial disputes. However, Malaysia would also be looking at other dispute resolution fora for a satisfactory resolution of such disputes or claims.

8. Further, Malaysia values the Court’s adherence to its prescribed mandates. Only this will increase the confidence of Member States and Non-Member States alike that the Court is able to serve its purposes.

Mr. Chairman,

9. Finally, Malaysia also notes the Belarus and the Russian Federation Working Paper recommendation, *inter alia*, that an advisory opinion be requested from the ICJ as to the legal consequences of the resort to the use of force by States without prior authorisation by the Security Council, except in the exercise to right to self-defence. If the Special Committee or the Security Council could elaborate guidelines on Article 51, there would be less room for misuse which pushes countries to create threats to international peace and security. This would also obviate the need for an ICJ Advisory Opinion. In Malaysia’s view, a more pertinent and urgent question to be addressed by the Court or by the international community should be the ambit and triggers for Article 51 use of force. This is especially in view of the various threats to use “pre-emptive” strikes in the name of self-defence in recent times.

Thank you, Mr. Chairman.