



PERMANENT MISSION OF THE REPUBLIC OF KENYA  
TO THE UNITED NATIONS

No. 84/12

The Permanent Mission of the Republic of Kenya to the United Nations presents its compliments to the Office of the United Nations Secretary-General and has the honour to refer to Note Ref. LA/COD/26 dated 10<sup>th</sup> March, 2011 and General Assembly Resolution 65/19 and further comments as follows:

***Article 16 should clarify whether the Draft Articles on responsibility of States for international wrongful acts would apply to either direct and indirect aid or assistance especially when such aid or assistance is financial. Further, Article 17 suggests that such responsibility would not arise in the event that a State only controls but does not direct another State in the commission of internationally wrongful acts and vice versa. This should not be the case. The use of the words "control and/or direct" could address the ambiguity.***

***As regards information regarding decisions of international courts, tribunals and other bodies referring to the Articles, at the moment Kenya has not been involved in any matter in international courts or tribunals, in reference to the Draft Articles on responsibility of States for international wrongful acts.***

The Permanent Mission of the Republic of Kenya to the United Nations avails itself of this opportunity to renew to the Office of the United Nations Secretary-General the assurances of its highest consideration.

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