



New Zealand Permanent Mission to the United Nations

Te Māngai o Aotearoa

AGENDA ITEM 83: Consideration of prevention of
transboundary harm from hazardous activities and allocation of
loss in the case of such harm

Statement on behalf of CANZ

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Mr Chairman,

I have the honour of speaking today on behalf of Australia, Canada, and New Zealand.

We would like to thank the Secretary-General for compiling decisions of international courts, tribunals and other bodies referring to the draft articles on prevention of transboundary harm from hazardous activities and the principles on the allocation of loss in the case of such harm. With decisions by the International Court of Justice, the International Tribunal for the Law of the Sea, and the Permanent Court of Arbitration invoking the draft articles, we are pleased to see that the International Law Commission's work on prevention of transboundary harm is already providing important reference points for international decision-making bodies.

We again extend our congratulations to the International Law Commission for completing its valuable work regarding the prevention of transboundary harm from hazardous activities and the allocation of loss from such harm.

CANZ welcomes the opportunity to discuss the prevention of transboundary harm and allocation of loss in the case of such harm, which are issues in which the CANZ countries have long had an interest. The gravity of the risk associated with transboundary harm from hazardous activities reinforces the importance of developing and maintaining a coherent and fair framework and standards that enjoys the support of the international community.

It remains the view of CANZ that the best way to ensure the progressive development of international law in this context is for the draft articles on prevention and the principles on the allocation of loss to remain in their current form. By adopting Resolutions 61/36, 62/68, and 65/28 commending the articles and principles to governments, CANZ considers that the General Assembly has confirmed their status as authoritative guidance for the conduct of all States with respect to the prevention of transboundary harm and the allocation of loss in the event of such harm.

CANZ is confident that the stature and influence of the principles and articles in international law will continue to develop in significance as they are referred to by Member States in the conduct of their activities and are drawn on by courts and tribunals at both the domestic and international levels.

Mr Chair,

CANZ considers there is little to be gained and more to be lost from attempting to transform the articles and principles into the form of a Convention. The articles and principles, as they have been adopted by the General Assembly, represent a major contribution to the achievement of a consistent, coherent and fair international framework for the prevention of transboundary harm from hazardous activities and the allocation of loss. They establish clear and comprehensive standards that every state that wishes to be in good standing in the international community will look to follow. An

attempt to turn them into a convention would be likely to take some time and this in itself would slow the process of their consolidation as the relevant international standards in this important area. It might also be many years before any resultant convention would enter into force.

As they stand, both documents inform and encourage national and international best practice, and enjoy widespread support among Member States. CANZ therefore encourages Member States to be guided by the prevention articles and the principles on the allocation of loss, thereby contributing to the progressive development of international law in this area.

Thank you.

ENDS