



MISSÃO PERMANENTE DE PORTUGAL  
JUNTO DAS NAÇÕES UNIDAS EM NOVA IORQUE

**68<sup>th</sup> Session of the United Nations General Assembly**

*Item 83*

**Consideration of Prevention of Transboundary Harm from  
Hazardous Activities and  
Allocation of Loss in the case of such Harm**

Statement by

**Mr. Mateus Kowalski**

***Assistant Legal Adviser***

**Ministry of Foreign Affairs of Portugal**

New York, 22 October 2013

*Please check against delivery*

Mr. Chairman,

The adoption of the draft Articles and principles by the General Assembly was a positive step towards the creation of measures for the minimization of the harm and loss which may result from incidents involving hazardous activities and of measures allowing prompt and adequate compensation to victims of transboundary harm. Those are the global objectives at stake and that we should continue to pursue: prevention, mitigation and compensation.

However, we are still far away from the recommendations by the Commission set out in 2001 and 2006: the elaboration of a convention on the basis of the set of draft Articles on the prevention of transboundary harm from hazardous activities; the endorsement by the General Assembly of the draft principles on the liability aspects.

Mr. Chairman,

Portugal considers that this topic should be analysed under the light of its own history and the purposes of codification and progressive development of International Law which should be harmonious and coherent.

Additionally, it is important to keep in mind that the prevention of transboundary harm, on one hand, and the international liability in the case of loss from transboundary harm, on the other, are included under the same main topic ('International Liability for Injurious Consequences Arising out of Acts not Prohibited by International Law'). Therefore, the two moments of the main topic, the moment before the transboundary harm – prevention – and the moment following the transboundary harm – loss –, should be dealt together with equal legal nature and enforceability.

Mr. Chairman,

Portugal hopes that one day it will be possible to have a single convention on 'Prevention of Transboundary Harm from Hazardous Activities and Allocation of Loss in the Case of

Such Harm'. A convention where the responsibility of the State in this matter is adequately established and a real system of compensation due by effects of lawful activities of States is put in place.

Having said that, and in conclusion, Portugal is of the view that, for the time being, it would be already a significant step forward to achieve a whole set of draft Articles or even of draft principles addressing prevention and allocation of loss, for the sake of the already mentioned need for coherence.

Thank you, Mr. Chairman.