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Statement of the United States of America

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Consideration of Prevention of Transboundary Harm from Hazardous Activities
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Thank you, Mister Chairman.

The United States once again extends its congratulations to the International Law Commission for completing its work regarding the prevention of transboundary harm from hazardous activities and the allocation of loss from such harm.

As we noted in our recent written submission, contained in document A/68/170, the Commission's draft articles on prevention of transboundary harm from hazardous activities have marked a positive step toward encouraging States to establish the means to address such issues as notification in specific national and international contexts. The principles on allocation of loss are also a positive step toward encouraging states to establish mechanisms to provide prompt and adequate compensation for victims of transboundary harm. The principles incorporate progressive ideas such as the responsibility of operators, the desirability of backup financial security measures, the importance of prompt response measures, and broad concepts of compensable harm. They also stress the importance of national, bilateral, regional and sectoral arrangements to carry out these ideas. The Commission urged States to take national and international action to implement the principles, and we similarly urge national action and State-to-State agreements in specific contexts, as that is what the principles were designed to encourage.

The General Assembly has commended both the draft articles on prevention and the principles on allocation of loss to the attention of Governments and invited comments on their form. We continue to believe it is most appropriate for the principles to be treated as non-binding standards to guide the conduct and practice of States, and for the work on prevention of transboundary harm to remain formulated as draft articles. Retaining the current, recommendatory form of these draft articles and principles increases the likelihood that they will gain widespread consideration and fulfill their intended purpose of providing a valuable resource for States in this area.

As we have previously noted, both the draft articles and draft principles go beyond the present state of international law and practice, and are clearly innovative and aspirational in character rather than descriptive of current law or State practice. Both documents were designed as resources to encourage national and international action in specific contexts, rather than to form the basis of a global treaty. We therefore strongly support retaining these products in their current form.

Thank you, Mister Chairman.