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Statement by

Mr. Ohad Zemet

International Law Department

Office of the Legal Advisor

Ministry of Foreign Affairs

Agenda Item 77

Responsibility of States for internationally wrongful acts

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Mr. Chairman,

Over a decade has passed since the Assembly adopted Resolution 56/83 which annexed the Draft Articles of the International Law Commission on the Responsibility of States for International Wrongful Acts and commended them to the attention of Governments. It is fitting to once again express our sincere appreciation to the International Law Commission, and the Special Rapporteur on State Responsibility, Professor James Crawford for completing this monumental project in 2001.

The law on State responsibility is truly one of the fundamental pillars of public international law, serving to enhance both the rule of law and peace and stability amongst nations. In that regard the Draft Articles serve as an undeniable pertinent legal accomplishment, my Government's reservations on certain issues notwithstanding.

In its last debate over this item, the General Assembly adopted Resolution 65/19 which included the item in the Sixth Committee's agenda of its sixty-eight session, with a view of "taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles."

The Delegation of Israel wishes to reiterate its previously stated position concerning the formulation of the articles into treaty form. In our view, embarking on negotiations at this time would be inadvisable, and might unravel the fragile balance struck in the wording of the Draft Articles. We share the desire, echoed by other States, for the progressive development of this important body of law. However, in our view the Draft Articles should be permitted to develop organically, not through multilateral treaty negotiations or international conferences, but rather, as stated by Professor Dinstein on behalf of the Israeli delegation in 2001, through their "affirmation in the marketplace of jurisprudential ideas."

The Draft Articles have already begun to gain the respect of scholars and the imprimatur of judicial and arbitral courts and tribunals, as is evident from the Secretary General's now third comprehensive compilation of judicial decisions (A/68/72). The articles, in their non-binding form, have clearly shown themselves as a useful guide for States and practitioners, and it is therefore difficult to see what would be gained from the adoption of a convention at this juncture.

Thank you Mr. Chairman.