



MISSÃO PERMANENTE DE PORTUGAL  
JUNTO DAS NAÇÕES UNIDAS EM NOVA IORQUE

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

*Item 77*

**Responsibility of States for Internationally Wrongful Acts**

Statement by

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**Ministry of Foreign Affairs of Portugal**

New York, 21 October 2013

*Please check against delivery*

Mr. Chairman,

Portugal would like to underline the importance of the work concluded in 2001 by the International Law Commission as well as to renew its tribute to the Commission and to all five Special Rapporteurs who dealt with the topic.

It is now more than sixty years since the Commission decided to embark on what is certainly one of its most important projects. This is a topic that has been maturing since 1949 when the Commission first selected the subject of 'State Responsibility' as being suitable for codification.

Portugal recognizes that Member States have differing views on the future of this topic. These views range from supporting a convention to adopting the draft articles through a General Assembly resolution containing the draft Articles. To a certain extent, this also reflects different approaches by civil law and common law legal cultures.

In 2001, the General Assembly, following a recommendation by the Commission, took note of the draft Articles, thus deciding to allow States to further think about the text without prejudice to its final form. This gave us all more time to test the draft Articles and to perceive how they would be incorporated in daily international practice.

Mr. Chairman,

If one wants convincing evidence of the opportunity and fundamental need to continue in this field, one only has to turn to State practice and to decisions of international courts and tribunals, including the case law of the International Court of Justice. The report presented this year by the Secretary-General with a compilation of decisions of international courts, tribunals and other bodies clearly illustrates it<sup>1</sup>.

Additionally, if one looks into the literature on the matter published since 2001, it is possible to identify a crescendo towards a general acceptance of the applicability of the draft Articles.

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<sup>1</sup> See A/68/72 of 30 April 2013.

It is also worth recalling that the current debate takes place as a result of the recommendation the ILC made in 2001 to the General Assembly to consider convening an international conference to examine the draft Articles with a view to concluding a convention.

Mr. Chairman,

For all these reasons, Portugal is of the view that the period of maturation of the draft Articles has reached a crucial point. There is an impressive number of case law and literature supporting a collective assessment of the draft Articles as well as of its great merits and imperfections. It is time to take action and move forward.

Mr. Chairman,

The time has now come for the General Assembly, as a body responsible for the codification and progressive development of International Law, to take a definitive stance on the future of the draft Articles.

Portugal concurs with others that the draft Articles on the responsibility of States for international wrongful acts are ready to be submitted to a diplomatic conference with a view to concluding a convention. Considering the stability that the draft Articles enjoy at the present, there should be no reason for fearing an extensive remake of the ILC project.

Thank you, Mr. Chairman.