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# UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
SEVENTY-FIRST SESSION, AGENDA ITEM 80,  
DIPLOMATIC PROTECTION

STATEMENT BY MS. AHILA SORNARAJAH  
FIRST SECRETARY (LEGAL AFFAIRS)  
UNITED KINGDOM MISSION TO THE UNITED NATIONS

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Mr Chairman,

The United Kingdom continues to take the view that the fate of the International Law Commission's draft Articles on **Diplomatic Protection** is closely bound up with that of the draft Articles on the Responsibility of States for internationally wrongful acts. This is, moreover, a view that was shared by the ILC's Special Rapporteur on this topic.

Article 1 of the draft Articles on Diplomatic Protection defines diplomatic protection in terms of the invocation of the responsibility of another State, and the provisions of the draft Articles on Diplomatic Protection can be seen as giving content to the admissibility requirements of Article 44 of the Articles on State Responsibility in the specific context of diplomatic protection. Thus, in the absence of consensus for a convention based on the draft Articles on State Responsibility, which we noted during discussion of the previous agenda item, a decision to begin negotiating a convention in respect of the draft Articles on Diplomatic Protection would be premature.

The United Kingdom also considers that the draft Articles on Diplomatic Protection go beyond codification of customary international law and contain elements which amount to its progressive development. We note that some of those elements of progressive development of the law would conflict with the United Kingdom's current practice, and we do not consider that they constitute a desirable change in the law. In particular, we consider that the apparently non-binding Article 19, entitled "Recommended practice", seems inappropriate for inclusion in a treaty and risks undermining States' wide discretion to decide whether or not to exercise diplomatic protection.

As the United Kingdom has emphasised previously, the drafting of a convention on Diplomatic Protection should not be seen as the only possible successful conclusion to this body of work. The most appropriate final form of the Articles is that which best serves the development of the law. At present, the United Kingdom remains of the view that the development of the law would best be achieved by continuing to allow the Articles to inform and influence State practice. We again suggest that further consideration of this agenda item be deferred until it is clear that the time is ripe for further action by this Committee.

Thank you, Mr Chairman,