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UNITED NATIONS GENERAL ASSEMBLY SIXTH COMMITTEE

TRANSBOUNDARY HARM

20 October 2016

Statement by Senator Lisa Singh

I have the honour of speaking today on behalf of CANZ: Canada, New Zealand and my own country, Australia.

We would like to thank the Secretary-General for the valuable work undertaken in compiling decisions of international courts, tribunals and other bodies referring to the draft Articles on Prevention of Transboundary Harm from Hazardous Activities, and the Principles on the Allocation of Loss Arising out of Harmful Hazardous Activities.

The General Assembly in its Resolution 68/114 of 18 December 2013, once again commended the draft Articles and Principles to the attention of Governments, with respect to the prevention of transboundary harm from hazardous activities and the allocation of loss in the event of such harm.

We are pleased to see that the Articles and Principles have been referred to by a number of judges of the International Court of Justice, albeit in separate opinions. We note the cases cited by the Secretary-General in which a relevant court or tribunal dealt with the issue of transboundary harm, and the potential for such cases to inform the interpretation and application of the Articles and Principles.

We also note that the draft Articles have been referenced in recent multilateral discussions. In the course of the Preparatory Committee for a possible treaty on Biodiversity Beyond National Jurisdiction, for example, the work of the ILC has been referred to when discussing the transboundary effects of activities in areas beyond national jurisdiction.

The risk of transboundary harm from hazardous activities is one that is only likely to grow as the world faces increasingly interconnected challenges. It is therefore critically important to have a consistent, coherent and widely-supported international framework that sets out the standards of conduct and practice for the prevention of transboundary harm, and the allocation of loss in the event of its occurrence.

CANZ continues to be the view that the draft Articles can contribute to the progressive development of international law in this area for further development of comprehensive standards for all States to follow.

Any attempt to consolidate the draft Articles and Principles into a binding convention is likely to take many years. As they currently stand, the Articles and Principles inform and encourage national and international best practice, and enjoy widespread support among Member States.

That support is likely to continue to grow as these Articles and Principles are invoked in discussions between Member States, in negotiation of bilateral and multilateral agreements, and also in national and international courts and tribunals.

CANZ therefore encourages Member States to continue to be guided by the draft Articles on the Prevention of Transboundary Harm from Hazardous Activities, and the Principles on the Allocation of Loss Arising out of Hazardous Activities.