



PEOPLE'S REPUBLIC OF CHINA
MISSION TO THE UNITED NATIONS

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(translation)

Statement by Ms. Ji Xiaoxue
Chinese Delegate

At the 71st Session of the UN General Assembly

On Agenda Item 80

**Consideration of prevention of transboundary harm from hazardous
activities and allocation of loss in the case of such harm**

New York, 20 October 2016

Mr. Chairman,

The International Law Commission (ILC) adopted in 2001 and 2006 respectively the Draft Articles on Prevention of Transboundary Harm from Hazardous Activities and the Draft Principles on the Allocation of International Liability in Case of Loss from Transboundary Harm Arising Out of Hazardous Activities. In the view of the Chinese delegation, both the Draft Articles and the Draft Principles fully reflect the progressive development of the relevant principles of international law, complement the existing regime on national liability and serve as an useful reference for states in addressing issues of transboundary harm from hazardous activities. Once again, the Chinese delegation would like to take this opportunity to express its appreciation to the ILC for its work.

The Chinese delegation notes that after years of deliberation on this topic in the Sixth Committee, the difference of views is now mainly on the final format of the Draft Articles and Draft Principles. However, such difference in view has not impeded the voluntary referencing by states of these drafts in preventing and addressing transboundary harm from hazardous activities, nor has it prevented the International Court of Justice, the International Tribunal of the Law of the Sea and other international judiciary organs from invoking these drafts in handling relevant questions.

On the final format of the drafts, China would like to emphasize the following two points. Firstly, the two drafts, which address two phases of the same question, have an inherent relationship and therefore should be treated in a unified format. Secondly, as a progressive development of existing international law, both drafts should be considered as *lex ferenda* and need to be tested in future practice. For instance, if territory, actual jurisdiction or control are considered the only criteria in determining the

country of origin, then in practice it might be unfair to many developing countries that host numerous plants belonging to transnational corporations. Therefore, we propose that our current work should be focused on collection and analysis of national practices. The formulation of an international convention can be contemplated when the requisite conditions are in place.

Mr. Chairman,

As global governance is assuming more significance and the destiny of humanity is becoming increasingly interdependent in today's world, strengthening cooperation and forging consensus hold the key to finding a proper solution of this question. The Chinese government will, as always, commit itself to international and regional cooperation, and is ready to work with other countries in our common effort to prevent and respond to such harm.

Thank you, Mr. Chairman.