Statement by

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Before

The Sixth Committee of the

71st Session of the United Nations General Assembly

On:

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

(Agenda Item 80)

New York, 20 October 2016

In the Name of God, the Compassionate, the Merciful

At the outset, we commend the work done by the International Law Commission on the topic "International liability for injurious consequences arising out of acts not prohibited by international law" and its two products namely the draft articles on "Prevention of transboundary damage from hazardous activities" in 2001 and "Allocation of loss in the case of transboundary harm arising out of hazardous activities" in 2006. My delegation would also like to thank the Secretary-General for his reports on consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm contained in documents A/71/98 dated 23 June 2016 and A/71/136 dated 12 July 2016 and the addendum thereto. We observed carefully comments and observations made by Governments in this regard and would like to make some comments on the topic.

The issue of "International liability for injurious consequences arising out of acts not prohibited by international law" primarily brought to the attention of the UN General Assembly by the International Law Commission in 1969 in its first report on State responsibility was officially put on the ILC's agenda in 1978 to cover those areas of accountability where "acts" or "omissions" are not necessary in violation of existing normative frameworks but cause "harm" to other entities. Therefore, the two byproducts of this tremendous work, namely the 2001 draft articles on "Prevention of transboundary damage from hazardous activities" and the 2006 draft principles on "Allocation of loss in the case of transboundary harm arising out of hazardous activities" are the result of extensive research carried out through years on diverse issues pertaining to "international liability", "civil liability" and relevant regional and international as well as domestic regimes on a comparative basis and as such contain elements considered to be common to domestic civil liability regimes in place in many countries and embodied in international

and regional schemes. The progressive nature of certain elements of the work, however, requires some time to effect adaptation on the part of States and further incorporation into domestic legislations. Therefore, while some time should elapse for all Member States to develop their relevant liability regimes whether at the national or international levels, it does not seem that the time is ripe for adoption of the drafts as conventions.

That said, we are cognizant of the fact that some of the notions set forth in the two drafts are part of *lex lata* and are thus already part of international and national corpus of law concerning liability for hazardous activities. While the overall perception on certain principles derived from such universal instruments as the 1972 Declaration of the United Nations Conference on the Human Environment and the 1992 Rio Declaration on Environment and Development namely prevention, cooperation, prior authorization, notification and information remain undisputed, at times their implementation and the intricacies related thereto seem to become subject of disputes. Likewise, whereas all Member States concur on notions as compensation and response measures, the definition of "damage" and of what constitutes "significant" damage remains to be open to interpretation and therefore at times controversial. In this context, I would like to emphasize the importance of Principle 6 of the 2006 draft on "International and domestic remedies" as regards adoption of relevant national and international legal frameworks to provide easy access to remedy by victims and that of Principle 7 concerning "Development of specific international regimes" whose consideration by Member States would improve the existing legal arsenal to prevent and provide remedy for victims of transboundary harm resulting from hazardous activities and pave the way for more harmonized compensation.

I should also add that the Islamic Republic of Iran is party to some of the relevant international instruments providing for civil liability regimes in diverse fields of industry such as international conventions regulating liability regimes for oil pollution damage and throughout the past years specific domestic regimes have been developed to that end and efforts have been underway to complement liability regimes related to hazardous activities. Moreover, as vast territories in Iran have been exposed to transboundary harm and many people have been suffering from and remain prone to serious health problems particularly resulting from haze, the Islamic Republic of Iran believes that should all Member States consider their due diligence in case of transboundary harm, no State will remain injured and uncompensated and no victim will remain without remedy.

In the end, I have to reiterate our interest in following up the issue. We continue to observe carefully statements and comments made by Member States and look forward to development of relevant international and regional regimes in diverse fields containing hazardous activities.