



New Zealand Permanent Mission to the United Nations

Te Māngai o Aotearoa

UNGA 71: Sixth Committee State Responsibility

Statement on behalf of Canada, Australia and New Zealand (CANZ)

Delivered by Kelly Mackie
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Chairperson,

I have the honour to speak today on behalf of Australia and Canada as well as my own country, New Zealand.

CANZ members are conscious that the draft Articles on the Responsibility of States for Internationally Wrongful Acts, presented to this Committee by the International Law Commission in 2001, represented the culmination of over fifty years' work. We remain grateful to the Commission for this important contribution.

This year's Report of the Secretary-General provides a useful update on the most recent decisions of international courts, tribunals and other bodies which refer to the Articles and the Commission's commentary. The Report shows that international courts and tribunals increasingly put weight behind the draft Articles as guidelines for their decisions and have found that many of the Articles are reflective of customary international law. We recognise that the draft Articles have been well received by States, international courts and tribunals and academia over the last 15 years. The fact that they have done so in relation to the draft Articles in their current form is instructive.

In relation to the questions of codification, our views have not changed. We continue to consider that it would be unhelpful to try and negotiate the Articles as a convention. At present, the Articles serve as a useful guide for governments, as well as international courts and tribunals, in their efforts to find practical solutions under international law. CANZ is concerned there could be further disagreement over different aspects of the draft Articles, should codification be attempted. In that sense, CANZ seeks to avoid an approach by the Committee which, no matter how well intentioned, could dilute and undermine the influence of the draft Articles and the significant achievement of the International Law Commission that they represent.

CANZ looks forward to the meetings of the Working Group to enable discussion of the Report of the Secretary-General.

CANZ considers that the adoption of a resolution endorsing the draft Articles, possibly with the draft Articles attached as an annex, remains the most viable approach. And one that would best reflect the range of views we have heard so far. We consider it essential that this debate focuses on ensuring appropriate weight is given to the draft Articles, without undermining them.

Thank you.