

Statement by
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on Agenda Item 75:

“Responsibility of States for internationally wrongful acts”

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

My delegation would like to thank the Secretary-General for his reports and compilation of decisions of international courts, tribunals and other bodies as contained in documents A/71/80 and A/71/79.

In our view, State responsibility is the backbone of international law and a cornerstone of the rule of international law in international relations; in a sense that without responsibility it would be difficult to talk about law. We commend the outstanding work done by the International Law Commission (ILC) through years. Five learned Special Rapporteurs of the ILC worked on the topic and almost all Member States reflected on its content whether in written form or in their statements in the Sixth Committee. As such, they reflect a wealth of intellect and consideration. The extensive reliance on articles by international courts and tribunals is indicative of the high value of the work of the ILC.

Iran attaches high importance to the question of state responsibility and believes that most of the provisions of the Draft Articles are expression

of customary international law. To name a few, I would like to refer to, for instance, Article 50 (a) entitled "Obligations not affected by countermeasures". This article elaborates that Countermeasures shall not affect the obligation of states to refrain from the threat or use of force as embodied in the Charter of the United Nations.

This provision is not only reflective of existing international law but also consistent with a number of authoritative pronouncements of international case-law, including the ICJ's decisions in the Corfu Channel case, and the case concerning the Military and Paramilitary Activities in and against Nicaragua.

Article 50 (b) further stipulate that Countermeasures shall not affect obligations of states for the protection of fundamental human rights. In our view, this provision could bring more assurances regarding respect to the fundamental needs of individuals living in the territory of the States, such as health, education etc.

On the other hand, for instance article 48 reflects the progressive development of international law. We took note of the position of some countries which challenged the customary nature of this provision during the debate on the topic at the sixth Committee in 2001. Moreover, we take note of the Separate opinion of Judge Skotnikov in case Belgium versus Senegal in ICJ in 2012 which brought to the attention of the court the lack of state practice in this regard. He observed that there is no precedent in which a State has instituted proceedings before ICJ or any other international judicial body in respect of alleged violations of an *erga omnes partes* obligation simply on the basis of it being a party to an instrument similar to the Convention against Torture. Nor does it refer to the draft Articles on Responsibility of States for Internationally Wrongful Acts adopted by the International Law Commission in 2001. In our view, this article needs to be further clarified in light of state practice.

Turning to the future action on proposed articles on state responsibility and to consider the final form of these articles by General Assembly, we maintain that the rules of state responsibility should be clear enough and known to all subjects of international law. The only way to realize this, is to crystallize the draft articles in the form of a binding treaty. A well-elaborated convention on state responsibility could contribute to legal certainty and better application and consequently, promotion of international law. we are of the view that the time is ripe to convene a diplomatic conference to adopt an international convention on state responsibility. it would provide an opportunity for Member States to negotiate a legally binding instrument on the basis of the ILC's Draft Articles. Furthermore, we maintain that it would be imperative to devise a dispute settlement mechanism for the future convention. Such a mechanism could bring certainty and predictability in application of its provisions and preclude any abuse in form of excessive and unjustified invocation of counter measures against other countries.

We stand ready to engage actively in the working group on responsibility of states.