



PERMANENT MISSION OF FINLAND TO THE UNITED NATIONS
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Statement by Finland on behalf of the Nordic Countries
(Denmark, Finland, Iceland, Norway and Sweden) at the
Responsibility of States for internationally wrongful acts (Agenda item 74)

Statement by

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New York, 7 October 2016

(check against delivery)

Mr Chairman,

I have the honor to speak on behalf of the five Nordic countries: Denmark, Iceland, Norway, Sweden and my own country Finland.

In 2001 the International Law Commission adopted on second reading the Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries as a result of nearly 50 years of work. The Nordic countries are pleased to return to this immensely important topic.

The comments made by the delegations during the Sixth Committee discussions in 2001 suggest that overall governments were content with the systematic structure given to the topic and found most of the individual provisions of the draft acceptable and to the point.

For the Nordic countries the draft presented a realistic way to codify the present state of customary international law on the matter. We were pleased with the balance struck in the articles and commended the efforts to establish a public law enforcement system in the case of a breach of obligations owed to the international community as a whole.

Mr. Chairman,

At the time of their adoption, the ILC draft articles had already become widely known and cited by lawyers, governments and legal institutions, most notably by the International Court of Justice. The Nordic countries, in line with the recommendation from the ILC, were of the opinion that adopting the draft articles as an annex to a General Assembly resolution would be the most appropriate form to put them in a strong position as the most authoritative statement available on questions of State responsibility.

Looking back, we are pleased that the ILC Articles have only gathered more authority as a restatement of the law of State responsibility. The Articles have influenced both state practice and the jurisprudence of international courts and tribunals, and are frequently cited in writings. As the case law – helpfully compiled by the Secretary General in 2004 and complemented this year – demonstrates, there is a broad recognition by a variety of judicial bodies of the authoritative status of the Articles.

Mr. Chairman,

The Nordic countries continue to believe that it would not be advisable at the present time to embark on negotiations for a Convention on Responsibility of States for Internationally Wrongful Acts. There is no question about the existence of international responsibility, and the articles reflect a widely shared consensus on its articulation, notwithstanding the fact that there may be different views on specific details.

Although we agree that a multilateral convention is in general an ideal instrument for guiding state action and creating legal certainty, we cannot see that time is ripe for a diplomatic conference aimed at producing a convention. There is a risk that reopening the Articles might jeopardize the delicate balance built into them. Furthermore, we would like to underline the significance of the present Articles in providing a framework within which the law can continue to develop.

The stance of the Nordic countries regarding the steps to be taken by the General Assembly has remained unchanged, which is also reflected in our comments submitted several times to the Secretary-General, most recently in February 2016. For the time being, we do not see a need for further action.

Thank you, Mr Chairman