



**PERMANENT MISSION OF THE REPUBLIC OF
SIERRA LEONE TO THE UNITED NATIONS**

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STATEMENT

by

H.E. MR. ALHAJI FANDAY TURAY
Permanent Representative

at the 77th Session of the United Nations General Assembly

Agenda Item: 80

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

New York, 19th October 2021

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**Chair,
Excellencies,
Distinguished Delegates,**

1. The delegation of Sierra Leone thanks the Secretary-General for his reports on the agenda item – “Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm”:
 - a. Document **A/77/148** – which is a compilation of further comments by Governments on any future action, in particular on the form of the articles, and the principles on the allocation of loss, bearing in mind the recommendations made by the International Law Commission on the elaboration of a convention on the basis of the articles, as well as on any practice in relation to the application of the articles and principles.
 - b. Document **A/77/147** – is a compilation of decisions of international courts, tribunals and other bodies referring to the articles, and the principles adopted by the ILC.
2. We commend the member States that made submissions to facilitate the preparation of both reports, providing insights on practice in relation to the application of the articles and principles. We take particular note of the reliance on the articles and principles in cases before international and regional courts.
3. Further, we place importance and agree with the views expressed on the need to protect the environment in the context of curbing transboundary harm by emphasizing prevention, and by “reaffirming

obligations that covered a subsequent stage once the damage had occurred, such as the obligation to guarantee prompt and adequate compensation for victims".

4. We underscore the significance of protecting and safeguarding the environment, and also with the duty of restitution in the event of harm, ultimately securing environmental safety and sustainability.
5. Accordingly, the delegation of Sierra Leone takes this opportunity to welcome the valuable work done by the Commission on the topic, and hereby expresses our support for the draft articles on prevention of transboundary harm from hazardous activities, as well as for the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities.

Chair,

6. In this debate, my delegation will focus its intervention on the question of any future action on the articles and principles. The delegation of Sierra Leone has noted overtime, that what has come out clearly in the recent trend in the Sixth Committee is the question of how the Committee is consistently dealing with the products of the ILC, particularly on its recommendations on the elaboration of conventions based on the articles it has adopted.
7. There is a common view on the overall authoritative nature of the work and products of the ILC on the one hand, and on the other hand, where compromises have been struck by the Commission, there is a call for States to respect the balance that may have been achieved by the

distinguished international law jurists. Importantly, the risk of not undermining or weakening the work done by the Commission is often cited to stay action, and as argued to allow, in the case of adopted articles, for those articles to mature. This is more so the case on issues relating to progressive development or a mix of codification and progressive development of international law.

8. In essence, some States would rather cede the article 13 paragraph 1 mandate of the United Nations Charter to courts and tribunals. There may be merit in this approach but not in all instances in our view. By adopting this approach as the mainstream view ignores the self-perpetuating nature of the argument and leads to circularity and inertia. It also leads to the lack of due regard for the mandate of the Sixth Committee and General Assembly, and the overall trust on the United Nations to lead and deliver on topics of importance to the international community.
9. It is my delegation's view that the metaphor of the Sixth Committee becoming the graveyard for ILC work products can only be reinforced by the self-perpetuating arguments, inordinate delays to address issues of pressing concern, thereby failing to strengthen the multilateral international legal order and promoting international cooperation in that regard.
10. Protecting and safeguarding the environment, its ecosystems, resources is certainly an issue of common concern, and the Sixth Committee's inertia leaves a gap. In the context of the present articles, this allows for fragmentation, owing to the reliance on regional instruments, and bilateral engagements. In the case of the increasing risk

of transboundary harm, a consistent and coherent international legal framework setting out relevant standards of conduct and practice is an imperative.

Chair,

11. Irrespective of the various positions of member States on the various products of the ILC with a similar recommendation as that of the present Articles, it is our view that there is common interest for the Sixth Committee to take stock of the agenda items dealing with products of the ILC, and further rationalize these topics with the view of sequencing meaningful debate on them, and to take action on the recommendations of the Commission.
12. There is also a need to examine the utility of the frequency of meetings on the topics, to ensure adequate opportunity to engage on the substance of the draft Articles with the passage of time. The delegation of Sierra Leone is not advocating for a “one size fit all approach”, but rather we are urging for consistency, and by extension legitimacy in the work of the Sixth Committee.
13. This approach can only complement the ILC’s examination of its own working methods, following the re-establishment of the Working Group on methods of work of the Commission, the receipt of working papers on, inter alia, *“the relationship with other bodies, including the Sixth Committee...; and nomenclature relating to the outcomes of the Commission’s work”*. We note that the Working Group is to continue its work in this regard in the next quinquennium and would urge for clear

view by the Commission on the value on the nomenclature relating to the outcomes of its work.

14. In closing, **Chair**, the delegation of Sierra Leone wishes to express the view that the articles and principles on transboundary harm provide good basis for the elaboration of a convention, and we see merit in combining the two draft instruments. My delegation looks forward to the Sixth Committee agreeing to a path to lead to meaningful discussions on the question of any future action, and also on the substance of the articles and principles.

15. I thank you.