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UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,
UNGA77, AGENDA ITEM 73

RESPONSIBILITY OF STATES FOR INTERNATIONALLY
WRONGFUL ACTS

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Delivered by Jonathan Hollis

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Madam/Mr Chair,

The International Law Commission has been fundamental to the development of modern international law. The Articles on the Responsibility of States for Internationally Wrongful Acts are one of the International Law Commission's most important achievements in recent years.

Throughout the drafting of the Articles - a process which lasted several decades - great care was taken to strike a balance that best captured the positions of States on this area of law. The drafters consulted widely, including governments, international law practitioners, and academics. As a result, the Articles have been highly influential, as evidenced by both the judgments of international and national courts and tribunals that make reference to their provisions, and the attention paid to them by States when formulating their legal positions.

In many respects, the Articles have become increasingly embedded in State Practice and *opinio juris* as time passes. However, as we have heard in our discussions of this topic, there are still diverging views among States on the extent to which the Articles reflect customary international law. The scope of application of the Articles is very broad, so it is understandable that views diverge and that the Committee has decided to take a deliberative approach to date. For similar reasons, the United

Kingdom remains cautious about proposals to move towards negotiating a Convention.

We remain concerned that such action has the potential to disturb the careful balance that was struck during the decades over which the Articles were drafted. At this time, it remains important to ensure that States have a trusted and dependable guide to attributing and responding to internationally wrongful acts. Opening up the Articles for negotiation now risks increasing the divergence of views, taking us further away from the coherence that the Articles sought to instil and making the law in this area less clear, rather than clearer.

It is questionable whether this is a risk worth taking when the lack of a Convention has not prevented the draft Articles being widely used in practice.

Consequently, we are not convinced that a Convention is the correct option for progressing the Articles at this time.

However, we continue to consider this topic to be of the utmost importance. A Working Group to discuss future action in respect of the Articles first met in the 65th Session and has met since then at triennial intervals in line with the Committee's consideration of the topic. It has been a venue for a useful discussion between States, and, although views have to date remained too diverse to take a decisive step towards a final outcome document, we think it useful that the members of the

Committee discuss possible future action at regular intervals and keep available options under review. We are therefore pleased that we will have the opportunity to discuss the options for progressing the Articles in the Working Group next week.

The United Kingdom will continue to listen to the views of others, and is open to considering, when the time is right, whether a Convention would be appropriate.

Thank you.