



UNITED STATES MISSION TO THE UNITED NATIONS

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**U.S. Remarks at a Meeting of the Sixth Committee on Agenda Item 74:
Responsibility of States for Internationally Wrongful Acts
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Thank you, Chair.

The draft articles on the responsibility of States for internationally wrongful acts, with commentaries, were adopted by the International Law Commission in 2001. Along with its recommendation to take note of the draft articles, the Commission recommended that the General Assembly consider, at a later stage, the possibility of convening an international conference with a view to concluding a convention on the topic.

Over the years, it has become clear that the range of views expressed in meetings in the Sixth Committee and in its working group to date indicates that consensus is unlikely.

The U.S. position has been, and remains, that the articles are most valuable in their current draft form. The draft articles have provided useful guidance to States and other actors on the customary international law of state responsibility. The United States appreciates the ILC's efforts, as well as this Committee's thoughtful contributions to this body of work.

The United States remains particularly concerned that opening the draft articles to the debate necessary to arrive at a convention could lead to the redrafting, questioning, or undermining of well-accepted rules documented in the draft articles. On the other hand, and in part because certain articles go beyond existing customary international law, a negotiated convention may not enjoy widespread acceptance by States at this juncture. Those draft articles that are not necessarily accepted by all States may not be ready for negotiation. It would be better to allow the topics covered by those rules an opportunity to develop through further State practice, to ascertain whether the draft articles may gain broader acceptance and crystallize into customary international law or not. Rules developed through State practice are much more likely to gain widespread acceptance, as opposed to a convention negotiated under the pressure of a condensed timeframe.