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## UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
SEVENTY FOURTH SESSION, AGENDA ITEM 75

### RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS

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*Check against delivery*

Mr Chairman,

The International Law Commission has been at the forefront of many of the most important developments in modern international law. The United Kingdom considers that the Articles on the Responsibility of States for Internationally Wrongful Acts represent one of the Commission's most significant projects to date. The scope of the Articles is very wide, potentially extending across all fields of international law, setting out general rules for establishing a breach of the law and the consequences that flow from such a breach. The Articles continue to be highly influential, not least as evidenced by the judgments of international and national courts and tribunals that make reference to many of their provisions, and the attention paid to them by States when formulating their legal positions.

In drafting the Articles over a period of decades, great efforts were made by the Commission to identify and reconcile differing State positions. However, while there is general consensus among States that many of the Articles reflect customary international law, there remain a significant number of Articles on which States' views diverge, or where there is insufficient State practice, or such practice is insufficiently uniform, to make such a determination. In the view of the United Kingdom therefore, it remains premature to assert that all of the Articles carry a sufficiently high degree of consensus among States, or are sufficiently grounded in practice, such that they can be said to reflect customary international law in their entirety.

That is why the United Kingdom has, on previous occasions before this Committee, expressed hesitation about moving to a Convention. We have been concerned that any move towards a

Convention has the potential to disturb the balance that was struck during the decades over which the Articles were carefully drafted, and about the risks of provoking further divergences and differences of views in such a way as to jeopardise the very coherence that the Articles are seeking to instil.

We still consider these risks to be real and significant.

At the same time, we see another risk. As we have said, we hold the work of the International Law Commission in the highest regard. But we have noticed in some academic writings and judicial pronouncements a certain lack of clarity as regards the legal force and status of some ILC output. On occasion, reliance is placed upon an ILC product as an articulation of international law without fully considering whether that product is sufficiently underpinned by State practice and *opinio juris* to justify such reliance. We need to ensure that international law continues to be properly formulated and developed in accordance with well-established principles.

Given the lack of consensus around the Articles, we are not yet convinced that a Convention is the correct option for progressing the Articles, or that the time is right to begin negotiations towards a Convention. However, the United Kingdom continues to listen to the views of others, wishes to remain engaged in the discussion of the Committee on options for progressing the Articles, and is open to considering, when the time is right, whether a Convention would be appropriate.

Thank you.