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Statement at the 80th General Assembly Sixth Committee
Agenda Item 76: Responsibility of States for Internationally Wrongful Acts
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The United States reiterates its appreciation for the Commission's work on this topic, as well as the Sixth Committee's thoughtful contributions in recent years to this body of work. The draft articles have provided useful guidance to States and other actors over the course of the last two decades.

There remain a range of views expressed in meetings in the Sixth Committee and its working group. Some States favor a diplomatic conference to negotiate a convention on the basis of the articles, while other States prefer to maintain the articles in their current form. Achieving consensus on any future action with respect to the articles appears unlikely. The U.S. position has been, and remains, that the articles are most valuable in their current draft form.

The United States doubts that a negotiated convention would enjoy widespread acceptance by States at this time. Certain articles go beyond existing customary international law and may not necessarily be accepted by all States. Conversely, 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. It would be better to observe how State practice on the topics covered by those articles develops. That will help ascertain whether the draft articles' provisions on those topics gain broader acceptance, and potentially crystalize into customary international law, or not.

More critically, the United States remains very 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 a number of the draft articles. To the extent

that States and other actors rely on many of the articles as an authoritative guide in attributing and responding to internationally wrongful acts, the negotiation of a convention could risk amplifying any divergence of views -- resulting in less clarity and coherence, not more -- in this significant area of international law.

In this connection, the United States considers that the potential costs outweigh any net gains, particularly where the lack of a convention has not prevented the articles' widespread use in practice. The United States looks forward to continued debate on this topic in the Working Group.

Thank you, Chair.