Statement by

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Before

The Sixth Committee of the

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On:

"Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm"

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In the Name of God, the Compassionate, the Merciful

At the outset, we commend the work done by the International Law Commission on the topic "International liability for injurious consequences arising out of acts not prohibited by international law" and its two products namely the draft articles on "Prevention of transboundary damage from hazardous activities" in 2001 and "Allocation of loss in the case of transboundary harm arising out of hazardous activities" in 2006. My delegation would also like to thank the Secretary-General for his reports on consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm contained in documents A/71/98 dated 23 June 2016 and A/71/136

dated 12 July 2016 and the addendum thereto. We observed carefully comments and observations made by Governments in this regard and would like to make some comments on the topic.

The issue of "International liability for injurious conseque9ces arising out of acts
not prohibited by international law" primarily brought to the attention of the UN General Assembly by the International Law Commission in 1969 in its first report on State responsibility was officially put on the ILC's agenda in 1978 to cover those areas of accountability where "acts" or "omissions" are not necessary in violation of existing normative frameworks but cause "harm" to other entities. Therefore, the two byproducts of this tremendous work, namely the 2001 draft articles on "Prevention of transboundary damage from hazardous activities" and the 2006 draft principles on "Allocation of loss in the case of transboundary harm arising out . of hazardous activities" are the result of extensive research carried out through years on diverse issues pertaining to "international liability", "civil liability" and relevant regional and international as well as domestic regimes on a comparative basis and as such contain elements considered to be common to domestic civil liability regimes in place in many countries and embodied in international

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and regional schemes. The progressive nature of certain elements of the work, however, requires some time to effect adaptation on the part of States and further incorporation into domestic legislations. Therefore, while some time should elapse for all Member States to develop their relevant liability regimes whether at the national or international levels, it does not seem that the time is ripe for adoption of the drafts as conventions.

That said, we are cognizant of the fact that some of the notions set forth in the two drafts are part of /ex lata and are thus already part of international and national corpus of law concerning liability for hazardous activities. While the overall perception on certain principles derived from such universal instruments as the

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