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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
David Bigge,, Attorney Adviser
October 13, 2022

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 stag1(9)nssembly [illegible]

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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 crystalize 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.