



**Statement on behalf of the Alliance of Small Island States (AOSIS) under Agenda Item 80 –
Consideration of prevention of transboundary harm from hazardous activities and allocation
of loss in the case of such harm**

Sixth Committee
Delivered by Ms. Asha Challenger, First Secretary,
Permanent Mission of Antigua and Barbuda
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Mr. Chair,

1. It is my honor to present this statement on behalf of the Alliance of Small Island States, the 39 small island developing states that are particularly vulnerable to the effects of climate change and other transboundary environmental harms with anthropogenic causes.
2. It has been many years now since the ILC completed its work on the draft “Articles on prevention of transboundary harm from hazardous activities” and the draft “Principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities”. While states have not yet decided to elaborate a convention on the basis of the Draft Articles and Draft Principles, AOSIS is of the strong view that there needs to be greater clarity on the obligations of states in the context of overlapping environmental crises. In this connection, we commend the ILCs work in addressing various environmental problems, including the protection of the atmosphere, sea-level rise in relation to international law, and the subject of our current agenda item.
3. Portions of both the Draft Articles and Draft Principles reflect existing customary law, in particular the duties to prevent significant transboundary harm and to compensate where these harms have occurred. Further, the ICJ has elaborated on the responsibility of States in preventing transboundary harm through the development of the obligation of due diligence. The Draft Articles and Draft Principles are particularly helpful in further

elaborating substantive obligations to minimize the risk of environmental harm and providing a concrete framework on how states should provide compensation when harms occur.

4. Small island developing states are specially affected by transboundary harms.

Transboundary environmental harms with anthropogenic causes, such as plastic pollution, the effects of climate change, and sea-level rise, have and will continue to alter every aspect of life for the citizens of small island developing states. Freshwater salinization, an increasing number of extreme weather events, coastal erosion, and threats to biodiversity driven by rising temperatures are just a few of the climate-change-related challenges small island developing states face. Sea-level rise will inundate small islands, exacerbating threats to our infrastructure and security. The locations of small island developing states make us particularly susceptible to the dangers of the eleven million tonnes of global plastic waste that enter the oceans annually. All of these transboundary harms are significant to the small islands. They have enormous impacts on our economies, from fisheries to tourism, and on the health of our people.

5. AOSIS considers that the Draft Articles and Draft Principles and the customary obligations in this area must be interpreted in light of the general principle of equity in international law. Small island developing states contribute less than one percent of all global production of fossil fuels, and our share of marine plastic waste is estimated at less than 1.3 percent. However, the adverse effects of climate change, sea-level rise, and plastic pollution disproportionately affect our industries, infrastructure, health, and culture. Equity is vital – small islands have contributed almost nothing to these overlapping and significant transboundary harms. It is inequitable, and frankly unjust, to expect that small islands use their relatively small national budgets to respond to and remediate the effects of transboundary harm caused by others.
6. The Draft Articles and Draft Principles codify key principles of international environmental law that are already reflected in customary law. States must work together to prevent transboundary harms and handle losses equitably. AOSIS would

welcome discussions with other states on how we can add further precision and clarity to the duties which already exist in international law, enhance cooperation on preventing transboundary harms, and ensure an equitable allocation of losses.

7. I thank you.