



MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS



CANDIDATE
to the
UNITED NATIONS
SECURITY COUNCIL
for the term 2015-2016

(Please check against delivery)

**STATEMENT BY
MS. SARAH KHALILAH ABDUL RAHMAN, REPRESENTATIVE OF MALAYSIA**

**ON AGENDA ITEM 83 ENTITLED
“CONSIDERATION OF PREVENTION OF TRANSBOUNDARY HARM
FROM HAZARDOUS ACTIVITIES AND ALLOCATION OF LOSS
IN THE CASE OF SUCH HARM”**

**AT THE SIXTH COMMITTEE OF THE SIXTY-EIGHTH SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY
NEW YORK, 22 OCTOBER 2013**

Mr. Chairman,

Malaysia records its appreciation to the Secretariat for the Reports of the Secretary-General on this agenda item (A/68/170) and the compilation of decisions of international courts, tribunals and other bodies (A/68/94), which were prepared pursuant to resolution 65/62.

2. Malaysia notes the progressive development of international law that is being proposed in the draft “Articles on prevention of transboundary harm from hazardous activities” and the “Principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities”. Malaysia further notes the latest comments and observations on the topic by various States in the Secretary-General’s current report (A/68/170) and previous report (A/65/184 and A/65/184 Add.1).

3. Malaysia wishes to reiterate the position it has taken in the deliberations on this agenda item at the 65th session of the United Nations General Assembly. Malaysia aligns itself with the cautionary views of States advocating the retention of the draft Articles and Principles in their current and recommendatory form pending further study of developments in State practice. Malaysia would therefore welcome a comprehensive analytical study by the Secretariat of States’ responses and their issues and concerns before further action is considered on the draft Articles and Principles.

Mr. Chairman,

4. Malaysia is of the opinion that special attention must be given to protect delicate and irreplaceable ecosystems and the livelihood they support against occurring or impending transboundary harm.

5. Further, Malaysia is of the view that the global effort to enhance the regulatory regime against transboundary harm from hazardous activities can be further advanced through a preventive code and principles for the allocation of loss and a creation of a harmonized compensatory scheme at the national level.

Mr. Chairman,

6. Specifically on some of the provisions of the draft Articles and the Principles, Malaysia wishes to recall its statement delivered during the 62nd and 65th Sessions of the United Nations General Assembly wherein Malaysia had highlighted several concerns pertaining to the Principles which are equally applicable in the context of the draft Articles. Malaysia had expressed that the scope and threshold of the term “significant” in draft Articles 1 to 3 would require further clarification and that such a term needed a more precise definition.

7. Malaysia also wishes to reiterate its view in relation to draft Article 9. In particular, Malaysia is concerned that without a compliance mechanism, it remains unclear how States would comply with the proposed mandatory requirement for preventive consultations, much less the exhortation in draft Article 9(3) that in the event consultations fail to produce an agreed solution, “the State of origin shall nevertheless take into account the interests of the State likely to be affected” if it decides to proceed to authorize the transboundary harm activity concerned. On that note, Malaysia is of the view that establishing cooperative networks and joint response measures at the regional level is the key to achieving workable solutions to prevent transboundary harm from hazardous activities, especially between bordering States that would be most affected by such activities. There is therefore a continuing need to reflect on the application of the draft Articles and Principles in the regional as well as bilateral contexts.

Thank you, Mr. Chairman.