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INTERNATIONAL LIABILITY FOR INJURIOUS CONSEQUENCES ARISING
OUT OF ACTS NOT PROHIBITED BY INTERNATIONAL LAW

Draft articles on International Liability for Injurious
Consequences arising out of Acts not Prohibited by
International Law: titles and texts of articles
adopted by the Drafting Committee

International Liability for Injurious Consequences arising
out of Acts not Prohibited by International Law

Article 1

Scope of the present articles

The present articles apply to activities not prohibited by international law and carried out in the territory or otherwise under the jurisdiction or control of a State which create a risk of causing significant transboundary harm through their physical consequences.

Article 2

Use of terms

For the purposes of the present articles:

(a) "risk of causing significant transboundary harm" encompasses a low probability of causing disastrous harm and a high probability of causing other significant harm;

(b) "transboundary harm" means harm caused in the territory of or in places under the jurisdiction or control of a State other than the State of origin, whether or not the States concerned share a common border;

(c) "State of origin" means the State in the territory or otherwise under the jurisdiction or control of which the activities referred to in article 1 are carried out.

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Article 11

Prior authorization

States shall ensure that activities referred to in article 1 are not carried out in their territory or otherwise under their jurisdiction or control without their prior authorization. Such authorization shall also be required when a major change in the activity is planned.

Article 12

Risk assessment

Before taking a decision to authorize an activity referred to in article 1, a State shall ensure that an assessment is undertaken of the risk of the activity causing significant transboundary harm. Such an assessment shall include an evaluation of the possible impact of that activity on persons or property as well as on the environment of other States.

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Article 14

Measures to minimize the risk

States shall take legislative, administrative or other actions to ensure that all necessary measures are adopted to minimize the risk of transboundary harm of activities referred to in article 1.
