



General Assembly

Seventy-third session

Official Records

Distr.: General
31 January 2019

Original: English

Sixth Committee

Summary record of the 31st meeting

Held at Headquarters, New York, on Thursday, 1 November 2018, at 10 a.m.

Chair: Mr. Biang (Gabon)
later: Ms. Kremžar (Vice-Chair)..... (Slovenia)

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The meeting was called to order at 10.10 a.m.

Agenda item 171: Observer status for the Community of Democracies in the General Assembly (continued) (A/C.6/73/L.9)

Draft resolution A/C.6/73/L.9: Observer status for the Community of Democracies in the General Assembly

1. **The Chair** said that he had been notified that the sponsors of the draft resolution had requested that the Committee decide to recommend that the General Assembly defer to the seventy-fourth session a decision on the request for observer status for the Community of Democracies in the General Assembly. He took it that the Committee wished to make such a recommendation to the General Assembly.

2. *It was so decided.*

Agenda item 174: Observer status for the New Development Bank in the General Assembly (continued) (A/C.6/73/L.4)

Draft resolution A/C.6/73/L.4: Observer status for the New Development Bank in the General Assembly

3. **The Chair** announced that Nigeria had become a sponsor of the draft resolution.

4. *Draft resolution A/C.6/73/L.4 was adopted.*

Agenda item 175: Observer status for the International Council for the Exploration of the Sea in the General Assembly (continued) (A/C.6/73/L.5)

Draft resolution A/C.6/73/L.5: Observer status for the International Council for the Exploration of the Sea in the General Assembly

5. **The Chair** announced that the Seychelles had become a sponsor of the draft resolution.

6. *Draft resolution A/C.6/73/L.5 was adopted.*

Agenda item 176: Observer status for the European Public Law Organization in the General Assembly (continued) (A/C.6/73/L.6)

Draft resolution A/C.6/73/L.6: Observer status for the European Public Law Organization in the General Assembly

7. **The Chair** announced that Armenia and Lithuania had become sponsors of the draft resolution.

8. *Draft resolution A/C.6/73/L.6 was adopted.*

Agenda item 177: Observer status for the Asian Infrastructure Investment Bank in the General Assembly (continued) (A/C.6/73/L.7)

Draft resolution A/C.6/73/L.7: Observer status for the Asian Infrastructure Investment Bank in the General Assembly

9. **The Chair** announced that Austria, Belgium, Germany, Malaysia, Nigeria and Papua New Guinea had become sponsors of the draft resolution.

10. **Mr. Atlassi** (Morocco) said that his delegation wished to become a sponsor of the draft resolution.

11. *Draft resolution A/C.6/73/L.7 was adopted.*

Agenda item 178: Observer status for the International Think Tank for Landlocked Developing Countries in the General Assembly (continued) (A/C.6/73/L.8)

Draft resolution A/C.6/73/L.8: Observer status for the International Think Tank for Landlocked Developing Countries in the General Assembly

12. **The Chair** announced that Austria and Bolivia had become sponsors of the draft resolution.

13. *Draft resolution A/C.6/73/L.8 was adopted.*

Agenda item 85: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (continued) (A/C.6/73/L.10)

Draft resolution A/C.6/73/L.10: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

14. **Ms. Maitso** (Lesotho), introducing the draft resolution on behalf of the Bureau, said that it was based on General Assembly resolution 72/118. It reflected the views expressed by Member States and also the recommendations set forth in the report of the Special Committee (A/73/33). Unlike previous years' resolutions, the draft resolution did not include a request that the Special Committee consider the question of the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions (Article 50 of the Charter), since, in accordance with paragraph 2 of the annex to General Assembly resolution 71/146, that question was to be considered by the Special Committee at the seventy-second session of the General Assembly and biennially thereafter. Similarly, the draft resolution did not contain a request that the Secretary-General brief the Special Committee on that question at its next session.

15. In paragraph 5 of the draft resolution, the General Assembly recalled its decision, in its resolution [72/118](#), to undertake an annual thematic debate in the Special Committee under the agenda item on the peaceful settlement of disputes. The topic for the next thematic debate, “Exchange of information on State practices regarding the use of mediation”, was indicated in paragraph 5 (a). In the new paragraph 19, the Secretary-General was requested to submit to the General Assembly at its seventy-fourth session a report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions. The request did not involve a new report but referred to the report that was to be submitted biennially as from the seventy-second session, pursuant to paragraph 2 of the annex to General Assembly resolution [71/146](#). The report in question would be considered by the Special Committee at its session in 2020.

16. *Ms. Kremžar (Slovenia), Vice-Chair, took the Chair.*

Statements made in exercise of the right of reply

17. **Mr. Al-Thani** (Qatar), referring to a statement made by the representative of the United Arab Emirates at the Committee’s 14th meeting (see [A/C.6/73/SR.14](#)), said that the order of the International Court of Justice of 23 July 2018 in *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, to which his delegation had previously referred (see [A/C.6/73/SR.13](#)), was directly connected with the agenda item at hand. The Committee’s discussion on the item had underscored the need to foster respect for the Charter of the United Nations, which provided that decisions of the International Court of Justice were binding. Because the Statute of the Court was an integral part of the Charter, any endeavour to promote compliance with the Charter also implied upholding respect for the decisions of the Court. By casting doubt on the order and seeking to avoid its enforcement, the Government of the United Arab Emirates had violated both the Statute and the Charter.

18. The representative of the United Arab Emirates had claimed that Qatar had sought to escalate the situation. In its order, the Court had required both parties to refrain from any action which might aggravate the dispute. Qatar would comply with that provision, even though the United Arab Emirates had yet to fulfil any of its obligations pursuant to the order. Qatar would, however, use all legal means to defend the rights of its citizens.

19. The representative of the United Arab Emirates had claimed that his Government was facilitating the entry and exit of Qatari nationals, and that Qatari students were currently present in the United Arab Emirates. Those claims were merely intended to avoid enforcing the order and to twist the facts in order to mislead the Committee. The Government of the United Arab Emirates had in fact persisted with its hostile and illegal policies against the Qatari people in the hope of fulfilling its dream of controlling the region and its resources. Qatar would continue to confront any encroachment on its sovereignty and any intervention in its internal affairs.

20. **Mr. Alazeezi** (United Arab Emirates) said that his country opposed any violation of the International Convention on the Elimination of All Forms of Racial Discrimination. Regrettably, Qatar had misrepresented the order of the International Court of Justice. The United Arab Emirates had in fact ensured that Qatari students could continue to study in the country. Surprisingly, the Government of Qatar appeared not to have kept track of its own citizens; there were in fact over 600 Qatari students in the United Arab Emirates. Thousands of Qataris resided in the country and were free to stay or leave. Both parties should engage with the Court proceedings in good faith and refrain from abusing that forum for political gain. His own Government had certainly not sought to avoid the issue, and the measures that it had taken were directed at the Government of Qatar, rather than its people. The United Arab Emirates was committed to complying with the Court’s request that the parties refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

21. **Mr. Al-Thani** (Qatar) said that the representative of the United Arab Emirates had regrettably departed from the practice of the Committee by politicizing what was intended to be a discussion of legal affairs. The world had watched in surprise and shock as the United Arab Emirates had used spurious allegations to take aggressive action against Qatar. Any fair-minded person could understand that those arbitrary actions amounted to widespread violations of human rights, including freedom of movement and freedom of expression. They were also inconsistent with the United Nations Global Counter-Terrorism Strategy, which required all Member States to respect human rights. Qatar, for its part, had not intervened in the internal affairs of the United Arab Emirates; its commitment to international law and the Charter of the United Nations was well known. He urged all States to respect human rights, which were the only guarantee of domestic and regional stability.

22. **Mr. Alazeezi** (United Arab Emirates) said that it was the representative of Qatar who had departed from the topic under consideration and sought to take advantage of the Committee's deliberations. All Governments had a responsibility to combat the scourge of terrorism. His Government categorically condemned the violations of international law committed by certain regional States, including Qatar, which sponsored terrorism and extremism and intervened in the internal affairs of other States. The United Arab Emirates was fully committed to international conventions and legal principles, including respect for the sovereignty of States.

Agenda item 90: Protection of persons in the event of disasters (A/73/229)

23. **The Chair**, recalling that the International Law Commission had adopted the draft articles on the protection of persons in the event of disasters at its sixty-eighth session and had recommended the elaboration of a convention on the basis of the draft articles, said that the General Assembly, in its resolution [71/141](#), had decided to include in the provisional agenda of the seventy-third session an item entitled "Protection of persons in the event of disasters" and had invited Governments to submit comments concerning the Commission's recommendation. Those comments were contained in the report of the Secretary-General on protection of persons in the event of disasters ([A/73/229](#)).

24. **Mr. Escalante Hasbún** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that CELAC welcomed the inclusion of the current item in the agenda of the seventy-third session. Given that disasters were occurring with increasing frequency around the world, it was important to make efforts to prevent them and, in the event that they could not be avoided, to be prepared for them, especially considering that there were few relevant legal instruments and that those available were not uniform. Apart from a few multilateral agreements and a larger number of bilateral treaties on mutual assistance, protection from disasters was addressed only in non-binding instruments elaborated at the intergovernmental level or by private institutions and entities. An international legal framework would therefore be useful. He hoped that the Committee could have a productive dialogue to determine the best way to move forward with the articles.

25. **Ms. Ellertsdottir** (Iceland), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the articles on the protection of persons in the event of disasters dealt with

an increasingly important area of public international law and were aimed at further strengthening the international disaster relief and humanitarian assistance system. They constituted a comprehensive framework for disaster risk reduction and covered the duty of the affected State to ensure protection and also the role of external assistance.

26. Emphasis was placed in the articles on human rights and human dignity and the fact that response to disasters must take place in accordance with the principles of humanity, impartiality, neutrality and independence. A gender perspective should be mainstreamed into humanitarian assistance in order to ensure that it was effective, impartial and reached all segments of the population, and to strengthen the protection of individuals through the recognition that women, men, girls and boys might have different needs and vulnerabilities. Ensuring that children received adequate protection was of fundamental importance, since they were often the most vulnerable. The International Federation of the Red Cross and Red Crescent had highlighted, in a number of reports, the increased risk of sexual and gender-based violence in disasters and other emergencies.

27. The articles provided that the provision of external assistance in general required the consent of the affected State but that such consent must not be withheld arbitrarily; thus an appropriate balance was struck between the rights and obligations of the affected State and those of assisting actors. That reflected the dual nature of sovereignty as entailing both rights and obligations, as mentioned in the commentary to article 13. Arbitrary denial of humanitarian access and depriving civilians of objects indispensable to their survival could constitute a violation of international humanitarian law. As further stated in the commentary, the refusal of assistance might under certain conditions constitute a violation of the right to life.

28. Given the importance of prevention, the Nordic countries welcomed article 9, which reflected the obligation of States to reduce the risk of disasters. In that connection, they recalled that, under Sustainable Development Goal 13, a strengthening of resilience and adaptive capacity in responding to climate-related hazards and natural disasters was called for. The articles on the protection of persons in the event of disasters could contribute to achieving that goal. The Nordic countries were open to discussing the possibility of elaborating an international convention on the basis of the articles.

29. **Ms. Cerrato** (Honduras) welcomed the decision to include the important topic of protection of persons in

the event of disasters in the agenda of the current session. Central America had been hit repeatedly by cyclical droughts, and climate change had rendered the situation all the more dramatic. Over the past five years, Honduras, a coastal State with island territories, had borne the brunt of the El Niño phenomenon, which had resulted in droughts that had seriously affected the country's food security and economic output, thereby undermining social and economic development. That situation presented a challenge in terms of international human rights law and international humanitarian law; a convention was therefore needed to strengthen the international legal framework. The articles prepared by the International Law Commission were a good starting point for a future instrument in which emphasis would be placed on the primary role of the State in protecting the human rights of its inhabitants affected by natural disasters, the basic needs and rights of affected persons, and the fundamental importance of international solidarity and cooperation in that area. Article 3 (Use of terms) could be expanded to include a larger number of agreed terms. Articles 4 to 7 could be grouped together in a section entitled "Principles". Article 9 (Reduction of the risk of disasters) should be linked with the Sendai Framework for Disaster Risk Reduction 2015–2030.

30. Her delegation welcomed the inclusion in the Commission's long-term programme of work of the related topic of sea-level rise in relation to international law and hoped that it would be moved to the Commission's current programme of work.

31. **Mr. Stefanile** (Italy) said that his country had in the recent past had to cope with the serious consequences of natural disasters. As a result, it had developed an advanced civil defence system, which had conducted operations both domestically and worldwide, including in the aftermath of the 2004 tsunami and the earthquakes in Haiti in 2010 and Nepal in 2015. Those experiences had reinforced his Government's conviction that a stable regulatory framework for international cooperation was key to an effective and swift response by the international community when the scale and effects of a disaster exceeded the response capacity of the affected State.

32. As explained in the commentary to the articles on the protection of persons in the event of disasters, no such framework currently existed. There were numerous, often outdated, bilateral agreements and soft-law instruments, and a number of multilateral agreements dealing with specific issues related to relief operations, but there was no general multilateral framework in which fundamental rules and principles were laid down. The articles constituted a balanced compromise between the responsibilities of the

international community in relief operations and respect for the sovereign rights of States, which maintained full control over the entry and operation of international actors. Thus, the articles were a sound basis for negotiating a future convention. His delegation was open to any option regarding the form and content of such a convention, but one possibility was a framework convention with a clearly defined scope that established the fundamental rules and principles of international cooperation in disaster response, especially with regard to relief operations conducted by external actors in the territory of the affected State. Such an instrument could be used by States as a basis for more specific operational instruments at the bilateral or regional level. Some form of quasi-institutional mechanism – for instance a secretariat, a meeting of the parties and/or a technical body – could be established to enable the parties to develop technical instruments facilitating the work of stakeholders and relief agencies on the ground.

33. In the context of climate change and a dramatic increase in the number of natural disasters and affected persons, the time had come for the United Nations to take the lead in providing a stable and comprehensive regulatory framework. Italy looked forward to engaging with other States on the issue.

34. **Mr. Ahmed** (Sudan) said that the International Law Commission recognized that human dignity was an essential principle of international law and the protection of human rights by stating in article 4 of its articles on the protection of persons in the event of disasters that the inherent dignity of the human person should be respected and protected in the event of disasters. That protection should be provided not just during disasters but also before they occurred.

35. International cooperation was necessary to that end. As highlighted in paragraph 19 (a) of the Sendai Framework for Disaster Risk Reduction 2015–2030, each State had the responsibility to prevent and reduce disaster risk, including through international, regional, subregional, transboundary and bilateral cooperation. There were many other instruments that confirmed the importance of international cooperation for the protection of persons and the provision of disaster relief assistance. As indicated in article 8, cooperation in the response to disasters included humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources. However, as specified in article 10, paragraph 2, the affected State had the primary role in the direction, control, coordination and supervision of such relief assistance. Each State was required to take appropriate measures, including through legislation and

regulations, to reduce the risk of disasters. The Sudan had indeed included such measures in its Constitution and in other national and local laws, including a law concerning the protection of the environment adopted in 2001 and another on protection of the environment and natural resources adopted in 2017.

36. The basic principle of the sovereignty of States was reaffirmed in the preamble to the articles and in article 13, in which it was indicated that the provision of external assistance required the consent of the affected State. The General Assembly had acknowledged that much in its resolution 46/182, where it had stated in paragraph 3 of the annex to the resolution that “the sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations”. It had further noted that humanitarian assistance should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country. Furthermore, while recognizing in paragraph 1 of the annex that humanitarian assistance was of cardinal importance for the victims of natural disasters and other emergencies, it had noted in paragraph 2 that humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartiality.

37. His delegation agreed with the stipulation in article 14 that the affected State might place conditions on the provision of external assistance and that such conditions should be in accordance with the applicable rules of international law and the national law of the affected State. Nonetheless, as indicated in article 15, the affected State should ensure that its relevant legislation and regulations were readily accessible to facilitate compliance with national law.

38. Since the International Law Commission had taken up consideration of the topic, the Sudan had supported its decision to opt for codification and progressive development of the law in that area. It had also supported the Special Rapporteur’s aim to prevent the severe consequences of disasters. Effective risk management, civil protection, early warning systems and repairing the social fabric damaged by natural phenomena were of crucial importance to the Sudan.

39. His Government recognized that over the course of a number of sessions on the topic, during which it had actively participated, the observations of States had led to the refinement of a set of articles concerning the effective protection of persons whose lives, well-being and property had been affected by disasters. In that regard, it seemed appropriate to adopt an international legal instrument that took a human rights approach and

was of particular relevance to the role of the affected State in ensuring the protection of persons and the provision of disaster relief assistance in its territory, or in a territory under its jurisdiction or control.

40. Lastly, his Government considered that it was particularly important to elaborate a convention on the basis of the articles, since it would be declaratory of existing practices among States and would therefore help to clarify and systematize those practices. It was also important to ensure the practical application of the fundamental value of solidarity in international relations in order to strengthen international cooperation at every stage of a disaster.

41. **Ms. Schneider Rittener** (Switzerland) said that the articles on the protection of persons in the event of disasters represented a significant step in facilitating international cooperation. They reflected existing rights and obligations and also included innovative provisions concerning the importance of upholding humanitarian principles and of taking into account the needs of particularly vulnerable persons when responding to disasters. Human dignity must be the guiding principle for any action taken in relation to disaster risk reduction and response.

42. However, the articles needed to be more precise and detailed in order to be smoothly applied. Switzerland had particular concerns regarding how the articles interacted with international humanitarian law. The Special Rapporteur had made a number of changes in an attempt to clarify the issue, but armed conflicts remained within the scope of the articles in situations of “complex emergencies”, where armed conflicts and disasters coexisted. There was also no clarity in the commentaries concerning the relationship between the articles and various areas of international law, in particular international humanitarian law and international human rights law. There was potential for uncertainty, since some of the articles contradicted international humanitarian law. With respect to the delivery of assistance, several articles were more restrictive than the rules of international humanitarian law.

43. Switzerland endorsed the articles, provided they were not applicable to situations of armed conflict. Through their application and incorporation into regional agreements and domestic law, they had the potential to become legally binding customary law.

44. **Mr. Bukoree** (Mauritius) said that, like most Member States, Mauritius was deeply concerned at the increasing impact and frequency of natural disasters that resulted in massive loss of life and property and displacement of persons, particularly in vulnerable

societies lacking adequate capacity to mitigate effectively the consequences of such disasters. It was gratifying that momentum was building for examining the feasibility of adopting a convention on the protection of persons in the event of disasters. His delegation was satisfied with the preambular part of the articles, although the second paragraph could be more detailed.

45. In article 3 (Use of terms), his delegation suggested replacing the word “great” in the phrase “great human suffering and distress” in subparagraph (a) with “immense”, “severe” or “acute”. It also wondered whether the phrase “a calamitous event” could be changed to “a calamitous natural or man-made event” or whether that would open the way for politically motivated determinations of what type of disaster had taken place. In article 3 (c), his delegation suggested defining “assisting State” as a State providing relief and/or humanitarian assistance. Consideration should also be given to switching the order of article 4 (Human dignity) and article 5 (Human rights), since human rights encompassed human dignity: the preservation of human rights should result in respect for and protection of human dignity. On the other hand, since international human rights law was normally grounded on the assumption that human rights derived from the dignity inherent in every human being, his delegation was open to retaining the two articles in their current order.

46. Article 6 (Humanitarian principles) could be fleshed out on the basis of General Assembly resolution [46/182](#), in particular the annex thereto, which contained guiding principles for strengthening of the coordination of humanitarian emergency assistance of the United Nations. It should be noted in that regard that humanitarian assistance was fundamentally civilian in nature. Where military capacity and assets were used as a last resort, it should always be with the consent of the affected State and in conformity with international law.

47. It was increasingly difficult for States to deal with the consequences of disasters, particularly when coupled with climate change, volatile food and commodity prices, and conflicts. International cooperation, as referred to in articles 7 and 8, was thus crucial. In that connection, it would be worth assessing the progress made by the United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER) and the Global Framework for Climate Services in providing information and forecasts for climate risk management. The Central Emergency Response Fund also played an important role in facilitating life-saving assistance to crisis-affected people.

48. In relation to article 9 (Reduction of the risk of disasters) and article 10 (Role of the affected State), it was important to underline the primary responsibility of each State to undertake disaster risk reduction and management, including through the voluntary implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030, together with the Global Platform for Disaster Risk Reduction. With regard to article 13, the meaning of paragraph 2, in particular the word “arbitrarily”, was difficult to understand. If an affected State was expected to give its consent to external assistance, it could not withhold such consent in an arbitrary manner. Thus, in his delegation’s view, the question of arbitrariness did not arise.

49. A convention on the protection of persons in the event of disasters would probably promote enhanced cooperation by the international community, but it would need to encompass all relevant frameworks, such as the Sendai Framework and the Bangkok Principles for the implementation of the health aspects of the Framework. It would be feasible to elaborate a convention, but the International Law Commission should first do further work on the articles to give them more substance.

50. **Mr. Perera** (Sri Lanka) said that the unprecedented number of natural disasters occurring around the world, together with challenges such as climate change, population growth and urbanization, called for a strengthening of the international humanitarian assistance framework. The international community had a collective duty, taking into account each country’s capacities, to protect those most vulnerable to the consequences of disasters. Island nations like Sri Lanka were particularly vulnerable to the impact of the ocean and climate change. His country had been hit hard by the 2004 tsunami and, more recently, by floods and landslides. It therefore welcomed the articles on the protection of persons in the event of disasters, which would contribute to strengthening the international legal regime for disaster response.

51. The International Law Commission, in its work on the articles, had sought to fill gaps in the international protection regime, drawing on work undertaken by many international organizations, including the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross, and in consultation with non-governmental organizations (NGOs). It had also recognized the core role of the principles of humanity, neutrality and impartiality in humanitarian assistance and disaster response. The Special Rapporteur had struck the right balance between competing principles such as State sovereignty and the duty to cooperate, and had

elaborated a qualified consent regime, taking into account the relevant General Assembly resolutions.

52. Sri Lanka supported the Commission's recommendation to the General Assembly to elaborate a convention on the basis of the articles. Such an instrument would serve to strengthen existing best practices among States and enhance international cooperation for the effective prevention, reduction and management of disaster risks.

53. **Mr. Musikhin** (Russian Federation) said that his delegation was grateful to the International Law Commission for its work on the protection of persons in the event of disasters, but that the articles on the topic did not constitute codification of existing international law. The report of the Secretary-General (A/73/229) showed that there was no agreement among States on the subject. The Sixth Committee should approach the subject with a clean slate and, at the current stage, not recommend specific steps to States. It would not be appropriate to consider the adoption of a legally binding instrument at the current time.

54. **Mr. Colaço Pinto Machado** (Portugal) said that the large number of natural disasters occurring around the world and the impact of phenomena such as climate change raised legal issues that needed to be addressed. He reiterated his delegation's view that the articles on the protection of persons in the event of disasters constituted a good framework. Although some issues required further study and clarification, key aspects of the topic such as the protection of human rights, State responsibilities and international cooperation were addressed.

55. The individual must be at the centre of any approach to the topic. The articles duly reflected the rights-based approach taken by the Commission, which Portugal had always advocated. In his delegation's view, a balance was struck in the articles between two values that were sometimes in conflict: State sovereignty and the protection of human rights.

56. His delegation had stated previously that the articles should become a legally binding international convention. If there was general consensus among States, his delegation would support submitting the articles to a working group to further analyse whether they could serve as the basis for a convention.

57. **Mr. Tang** (Singapore) said that the protection of persons in the event of disasters was an important issue for his region. Singapore stood in solidarity with its neighbours that had experienced such disasters, including in recent months, and would continue to endeavour to respond when called upon. His delegation

appreciated the Commission's efforts to include in its work a diversity of State practice and also the practice of the Association of Southeast Asian Nations (ASEAN).

58. Some of the articles on the protection of persons in the event of disasters clearly reflected current State practice. For example, article 12, paragraph 2, provided that entities from which assistance was requested should expeditiously give due consideration to the request and reply to the affected State, and article 13, paragraph 1, stipulated that the provision of external assistance required the consent of the affected State. Those provisions reflected the corresponding articles in the ASEAN Agreement on Disaster Management and Emergency Response and had informed the contributions of Singapore to relief efforts in countries in the region affected by disasters.

59. The articles represented an important contribution in the field of international law governing disaster response and served as a useful guide for States and other actors engaged in disaster relief. His delegation would welcome further discussion on whether to elaborate a convention based on the articles.

60. **Mr. Marani** (Argentina) said that, in his delegation's view, the articles on the protection of persons in the event of disasters reflected the practice of States in disaster situations. Argentina had a wealth of experience in that regard, thanks to its White Helmets Commission, which, through the concept of "socio-natural disaster", attributed a social dimension to disasters and rejected the idea that they were natural, inevitable and unmanageable. Thus, it was understood that natural phenomena had a greater impact in areas of extreme poverty, high population density and unequal distribution of wealth and land, and on those who were vulnerable because of their gender, origin or age. Moreover, in many cases no public policies were in place for risk management or risk reduction or, if they did exist, they were inadequate. For that reason, his delegation welcomed the articles produced by the International Law Commission with a view to the elaboration of a convention to close existing gaps in international law and promote legal certainty and predictability.

61. Greater certainty about the applicable norms would help alleviate the suffering of persons in the event of disasters, streamline the response of the international community and facilitate the provision of humanitarian assistance, with the overall objective of preserving human dignity and respecting and protecting the human rights of persons affected. His delegation therefore

supported the continued consideration of the topic in the Sixth Committee.

62. **Mr. Bode** (Togo) said that his country had sustained enormous damage from recurrent disasters, both natural and human-made, which had left many people impoverished and undermined the country's development efforts. In response, Togo had elaborated national and regional plans for disaster response and disaster risk reduction. In 2017, a national civil defence agency had been set up to coordinate emergency prevention and management and ensure the protection of persons and property in the event of a disaster. The agency was also responsible for raising public awareness of civil defence matters, training civil defence personnel, protecting displaced persons and refugees in collaboration with the relevant bodies, and providing advice on the establishment of action plans. It had contributed to disaster risk reduction by establishing a regulatory framework for disaster relief planning and by drafting guidelines for local authorities on disaster relief.

63. Despite those ambitious initiatives, Togo had limited means for ensuring the protection of its population in the event of disasters. Accordingly, it welcomed the articles on the subject and supported the elaboration of a convention on the basis of those articles, which would help establish that the protection of persons in the event of disasters was a universal humanitarian principle and constituted an obligation that was binding on all States,

64. **Mr. Cuellar Torres** (Colombia) said that his delegation endorsed the recommendation of the International Law Commission that the articles on the protection of persons in the event of disasters be used as the basis for a convention. States cooperated to some extent to implement disaster risk reduction measures and to respond to disasters when they occurred. However, there was a proliferation of bilateral, regional and multilateral instruments on the subject, establishing different and at times contradictory obligations, principles and objectives. The text elaborated by the Commission would create a common legal framework and thereby facilitate the appropriate humanitarian action.

65. A delicate balance was struck in the articles between the principles of State sovereignty and non-interference and the essential needs and rights of persons affected by disasters. The articles reflected fundamental concepts that had already begun to influence related international instruments, such as the Sendai Framework for Disaster Risk Reduction 2015–2030 and decisions taken by the Security Council in

situations of armed conflict. They had helped to create, and come to embody, the subject of international disaster response law.

66. A number of delegations had expressed concerns about the articles, which must be taken into account in order to successfully conclude a convention. For example, the role of sovereignty and the concept of duty, specifically in relation to articles 7, 9 and 11, had been discussed at length, and it had been noted that the term "sovereignty" might refer to the responsibility of the affected State vis-à-vis its population, or to the power of the State to determine how it wished to receive cooperation. Similarly, it was unclear at what point a State had a duty to cooperate or to seek assistance when a disaster occurred. The need to establish a definition of those terms, rather than being an impediment to the conclusion of a convention, was an incentive to reach agreement so that States and humanitarian relief organizations could take more effective, coordinated action.

67. A convention based on the articles would fill a gap in international law. A number of delegations had argued that such a convention would give rise to a range of administrative procedures that might hinder cooperation in the event of disasters and would therefore be counterproductive. However, it was precisely the lack of such a regulatory framework that was currently hindering cooperation. In his delegation's view, the articles should serve as the basis for a convention, notwithstanding the need to reach agreement on certain points that continued to give cause for concern.

68. **Ms. Pierce** (United States of America) said that the United States was committed to reducing the risk of disasters at home and abroad, responding to them in a way that took into account the needs of those disproportionately affected, such as persons with disabilities, children, women and older persons, and involving those groups in the design of inclusive strategies and plans for disaster risk reduction and response.

69. Her delegation continued to believe that the topic was best approached through the provision of practical guidance to countries in need of or providing disaster relief, and not through the elaboration of an international agreement. In that regard, it had been pleased to work with Member States and stakeholders in a variety of forums, such as the 2017 Global Platform for Disaster Risk Reduction and the sixth Regional Platform for Disaster Risk Reduction in the Americas, held in 2018. The United States also supported other relevant activities, such as those of the Internal Displacement Monitoring Centre, which monitored

disaster-related displacement in order to improve humanitarian responses. In addition, it supported NGOs and government counterparts in Latin America in working with local communities to improve and disseminate strategies and plans to manage the risk of natural and other disasters. It would continue to engage in such forums and activities.

70. **Ms. Jabar** (Malaysia), referring to the report of the Secretary-General (A/73/229), said that, while several States had expressed support for the elaboration of a convention based on the articles on the protection of persons in the event of disasters, others had insisted that it was not necessary. Malaysia agreed with the view that the development of guidelines to inform good practice would be most helpful for States and others engaged in disaster relief, rather than a legally binding instrument, on the basis that such guidelines appeared more likely to enjoy widespread support and acceptance. It would be difficult for States to strictly adhere to legally binding provisions, since aid and relief requirements varied according to the circumstances. A one-size-fits-all approach could prove unduly restrictive. A convention would also entail the introduction of administrative protocols and procedures, thereby complicating the whole process of dispatching aid. States should be able to decide whether or not to adopt the articles. Even if they did not do so, that should not stop them from making reference to the articles where they deemed it necessary. The articles could thus be seen as the international reference point for disaster relief and management.

71. **Mr. Machida** (Japan) said that, in his delegation's view, the articles on the protection of persons in the event of disasters contributed to the progressive development of international law. As a country at a high risk of disasters, Japan was keenly interested in the topic. In addition to the earthquake and tsunami of 2011, Japan had suffered serious damage from many other natural disasters: in summer 2018, major earthquakes had struck Osaka and Hokkaido, and a series of powerful typhoons and unusually heavy rain had brought floods and landslides to western Japan, causing serious damage and affecting a large number of people. The need for international legal norms was thus growing. Japan was pleased that a delicate balance was struck in the articles between humanitarian requirements and national sovereignty, and that careful consideration had been given to the widespread practice of States. It looked forward to fruitful discussions on the articles.

72. **Mr. Kabir** (Bangladesh) said that his country attached great importance to effective and timely disaster response, disaster risk reduction and the

promotion of the rights and dignity of those affected, particularly given the increasing number and frequency of natural disasters around the world and the impact of climate change. With regard to the articles on the protection of persons in the event of disasters, it was the primary responsibility of the affected State to ensure protection and assistance for persons in its territory or in territory under its jurisdiction or control. His delegation was not certain whether the words "duty" and "role" in article 10 sufficiently conveyed that responsibility, as well as the responsibility to seek external assistance where necessary. Furthermore, the notion of a disaster that "manifestly" exceeded the affected State's national response capacity required further clarification. In the case of a natural disaster, a State's national response capacity might be manifestly exceeded, but in the case of a human-made disaster it might be less obvious whether or not it had seriously disrupted the functioning of society.

73. The affected State should ensure the protection of relief personnel and equipment and facilitate the entry of personnel, provide them with work permits and ensure their freedom of movement. In addition, it should not arbitrarily withhold consent to external assistance. Those issues were dealt with appropriately in the articles. However, the obligations of assisting States and others providing relief assistance should also have been addressed. The provision of external assistance must not be used to interfere in the internal affairs of the affected State, especially under the pretext of protecting persons affected by disasters.

74. His delegation would like to hear more about State practice on the ground. The articles produced by the International Law Commission constituted a useful contribution to the legal framework for the protection of persons in the event of disasters. Efforts should be made to build on the Commission's work and to address outstanding issues.

75. **Mr. Luna** (Brazil) said that the articles on the protection of persons in the event of disasters were generally well balanced and helped fill a gap in the international legal framework. However, his delegation was concerned about the broad scope of the articles, as reflected in the preamble and the definition of "disaster" to include both natural and human-made disasters, which were subject to completely different legal regimes. Although the Commission had attempted to deal with that shortcoming in paragraph (8) of the commentary to article 5 and in article 18, it would still be difficult to apply the same set of rules in both cases. In his delegation's view, it was important to preserve a clear distinction between natural and human-made disasters.

76. His delegation appreciated the fact that the Commission had included a stand-alone article on the inherent dignity of the human person, followed by a provision on the need to respect and protect the human rights of persons affected by disasters, since it was important never to lose sight of the human rights perspective, particularly when addressing mass displacement caused by disasters. Every year, thousands of victims of natural disasters moved within their own countries or across borders in search of safety and a secure livelihood. Brazil was involved in a number of international initiatives, such as the Nansen Initiative and its follow-up, the Platform on Disaster Displacement, which were aimed at assisting States in preventing and preparing for displacement before a disaster struck and responding to such displacement when it occurred, and at encouraging regional, subregional and international cooperation in that regard.

77. **Mr. Horna** (Peru) said that a legal framework governing disaster preparation and management would be of great use to the international community. He therefore hoped that the Sixth Committee would accept the articles on the protection of persons in the event of disasters with a view to codification. An appropriate balance was struck in the articles between the rights of persons affected by disasters and the principle of State sovereignty. For example, as stipulated in article 11, the affected State had a duty to seek external assistance only to the extent that a disaster manifestly exceeded its national response capacity. The interaction between the articles and international humanitarian law was reflected in article 18, which meant that the integrity of international humanitarian law as *lex specialis* was safeguarded. Peru was pleased that the articles, in particular article 9, covered disaster risk reduction; they thus reflected a number of principles of international environmental law, such as due diligence, and were in line with recent developments, including the establishment of the Sendai Framework for Disaster Risk Reduction 2015–2030.

78. **Mr. Ahmadi** (Islamic Republic of Iran) said that the protection of persons in the event of disasters had nothing to do with the concept of responsibility to protect; any kind of linkage in that regard would not be appropriate. The affected State had the exclusive right to recognition of the threshold of disaster and thus to affirm that a disaster had disrupted the functioning of society. It should be left to the affected State to determine its own capacities of reaction in the face of disasters, to decide whether it had the necessary means to confront them and to announce that a disaster was over. Humanitarian assistance should be provided solely on the basis of an appeal by the affected State. The

principles governing humanitarian assistance must be observed in parallel with the principles of the sovereign equality of States, respect for the territorial integrity of the affected State and non-interference in the internal affairs of States.

79. Turning to the articles on the protection of persons in the event of disasters, he noted that article 13, paragraph 2, provided that consent to external assistance must not be withheld arbitrarily. However, arbitrariness was an evidently subjective criterion; furthermore, a decision to withhold consent risked being influenced by political factors. International cooperation could play a crucial role in managing disasters. In his delegation's view, the core element of the duty to cooperate must be cooperation between States and not between States and international organizations. Lastly, some of the provisions contained in the articles were not in line with State practice. His Government remained uncertain whether the time was ripe for convening a diplomatic conference and adopting the provisions in the form of a treaty.

80. **Ms. Ponce** (Philippines) said that her delegation reaffirmed its support for the articles on the protection of persons in the event of disasters, in particular the emphasis placed in the text on human dignity, human rights, especially the right to life, and humanitarian principles. It was her delegation's understanding that the articles applied with flexibility to both natural and human-made disasters outside the realm of international humanitarian law, and that they applied without discrimination on the basis of nationality or legal status, since they were focused on both the needs and rights of victims. Her delegation also supported the inclusion of a gender perspective.

81. Her delegation endorsed article 9 (Reduction of the risk of disasters). The Philippines had specific laws on disaster risk reduction, management and response, in accordance with its commitments under the Sendai Framework for Disaster Risk Reduction 2015–2030 and the ASEAN instruments on disaster management, emergency response and mutual assistance.

82. Article 10, which contained the fundamental principle that the affected State had the primary role in the direction, control, coordination and supervision of disaster relief assistance, should be read in conjunction with article 11 (Duty of the affected State to seek external assistance) and article 13 (Consent of the affected State to external assistance). The duty to seek external assistance should not be interpreted as compelling a State to seek such assistance if it determined that a disaster did not manifestly exceed its national response capacity; each State should have

discretion to decide in a manner consistent with its own best interests and territorial sovereignty. Given its extensive experience of disasters, in particular the aftermath of Typhoon Haiyan, the Philippines agreed that, when assistance was requested, there must be a guarantee that it would not be used as a pretext for interfering in the internal affairs of the requesting State. The articles in question were necessary because they reflected the recognition that a disaster could exceed the affected State's capacity to respond. An affected State without adequate resources could and would seek assistance from other States, the United Nations, international NGOs and the private sector. Creating a qualified consent regime for the affected State, to be exercised in good faith, balanced the right of State sovereignty with the sovereign State's obligation to protect human life and human rights during disasters.

83. Her delegation supported article 16, in which the duty of the affected State to guarantee the protection of relief personnel, equipment and goods and not to cause harm to them was recognized. It appreciated the clarification that that duty should not entail the creation of unreasonable and disproportionate hurdles for the already compromised ability of the affected State to provide security and protection both to its own people and to relief personnel and their accompanying equipment and goods. In any event, it was underlined with regard to article 15 (Facilitation of external assistance) that such limitations should not prevent relief personnel from assisting disaster victims. Under Philippine law, it was a crime for both State and non-State actors to profit from an already fragile disaster zone.

84. Owing to the continued increase in the number and intensity of disasters around the world, including in the Philippines, much State practice had developed. Her delegation was open to the elaboration of a convention on the basis of the articles, since such an instrument would help clarify that State practice.

85. **Mr. Eidelman** (Israel) said that Israeli teams had been at the forefront of countless disaster relief missions around the world. In 2017, Israel had sent a delegation of 70 soldiers to Mexico following the earthquake there. Israeli rescue missions had helped in assessing damage and conducting rescue operations. In 2018, a delegation of eight medical specialists sent by Israel to Guatemala after the eruption of the Fuego volcano had provided emergency treatment to injured persons in hospitals and at the affected sites.

86. Israel was firmly committed to improving protection for persons affected by all phases of disasters. However, it reiterated its view that the undertaking to

engage in protection missions should not be considered in terms of legal rights and duties. Instead, the articles on the protection of persons in the event of disasters should be formulated as guidelines or principles for voluntary international cooperation efforts.

87. **Mr. Tegoni** (Observer for the Sovereign Order of Malta) said that the Order was active in 120 countries, providing medical, social and humanitarian assistance for people in need, particularly those affected by armed conflicts and natural disasters. It also focused on disaster risk reduction. Recent emergency interventions had been conducted in Indonesia, where a team from the Order's worldwide relief agency, Malteser International, had been deployed to help the victims of the September 2018 earthquake and tsunami. Malteser International had also provided emergency relief after previous disasters in Indonesia, including the 2004 tsunami. The Order's Guatemalan Association had provided assistance to displaced and bereaved persons after the eruption of the Fuego volcano, while its Puerto Rico Delegation had joined forces with Malteser International to provide aid to those affected by Hurricane Maria. The Order had also provided assistance in Nepal after severe earthquakes, in the Philippines after Typhoon Haiyan, in the famine-stricken Horn of Africa, and across Europe in response to floods and extreme weather. Long-term sustainable development projects were ongoing in Asia and Haiti.

88. Through projects in 20 countries in Africa, Asia and the Americas, Malteser International provided emergency relief after disasters and supported recovery efforts with a focus on sustainable development. All of its projects were carried out in compliance with international standards for the provision of humanitarian aid.

The meeting rose at 12.45 p.m.