



PHILIPPINES

CHECK AGAINST DELIVERY

STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations
**Working Group on Agenda Item - 86: Protection of persons in the event of disasters
(Cluster IV)**

78th Session of the United Nations General Assembly
9 October 2023 PM, Trusteeship Council
UN Headquarters New York

Thank you, Mr. Chair,

For Cluster IV, the following are our **preliminary comments**:

In previous debates the Philippines has expressed general support for this cluster of Articles (10, 11, 13, and 14) but we are also cognizant of the concerns raised, specifically in relation to sovereignty.

Article 10 articulates the fundamental principle that the affected State has the primary role in the direction, control, coordination and supervision of disaster relief assistance.

There have been views to further clarify the link with sovereignty by making clear reference to the term in Article (10) (1), including by adding the word sovereignty in Paragraph 1, such as by inserting a phrase such as “by virtue of its sovereignty” following the first clause, to read:

Paragraph 1: The affected State, by virtue of its sovereignty (and in accordance with its national legislation), has the duty to ensure the protection of persons and provision of disaster relief and assistance in its territory under its jurisdiction or control.

We are open to such language adjustments if such address the concerns of delegations.

We dissect the very heart of the Draft Articles, when we read Article 1 together with Article 11 on the duty of the affected state to seek external assistance and with Article 13 on its consent to that external assistance.

These draft articles are not only important but necessary, because they recognize - as historical experience has shown time and again - that a disaster can exceed, manifestly or otherwise, the affected State's capacity to respond. As mentioned previously, an affected state, without adequate resources, can, and will, ask appropriate help from others - other states, the United Nations, international nongovernment organizations, and the private sector. Creating a qualified consent regime for the affected state, to be exercised in good faith, balances the right

of sovereignty with the obligation of the sovereign to protect human life and human rights during disasters in a timely manner.

There have been concerns raised in relation to Article 11. The Article may be viewed as necessary corollary of Article 10. It stems from the primary role of the affected state for ensuring the protection of persons, the provision of relief and assistance in its territory, in the event of disasters.

There are views that the draft Article 11 could place unnecessary legal burden on the affected State and that it may be abused for political and other reasons. It may be noted that characterizing it as a duty under international could even depoliticize it. Further, when operationalized, this is not necessarily the case. The affected state, in discharging this duty, has wide latitude. It may choose to seek external assistance bilaterally, multilaterally, from the UN, or from other assisting actors.

There are also concerns on the meaning of “manifestly” in Article 11 and how the term “manifestly” should be understood? We have previously pronounced that good faith should be exercised in this regard. Some states have called for further qualification of the term, while others have called for the elaboration of practical standards in defining this duty of a State when the disaster “exceeds manifestly the state’s response capacity.” We are open to further qualification of this term, as appropriate, including possible insertion of terms to invoke such standards in the current text, to provide further clarity in its operationalization.

Article 13 provides further balance to the rights of the persons with that of the principle of State sovereignty, and the duty to seek assistance with that of providing consent as a sovereign. Some have viewed the term “arbitrarily” in Article 13(2) as vague or difficult to understand.

Our understanding of the requirement that the affected State’s consent and creation of conditions should not be abused for political and other reasons that may result in delay of external assistance delivery to affected persons who are in danger of loss of life, injury or property damage. We are open to further adjustments to provide more clarity on this phrase.

Thank you, Mr. Chair. **END**

