



IRELAND

Statement by

**Mr. James Kingston
Legal Adviser
Department of Foreign Affairs**

at the

**Sixth Committee
United Nations General Assembly
67th Session**

New York, November 2012

Agenda Item 79:

**The Report of the International Law Commission on the Work of
its 63rd and 64th Sessions**

**Part 1 – Chapters I-III (Introduction, Summary of Work, Specific
Issues), Chapter IV (Expulsion of Aliens), Chapter V (Protection of
Persons in the Event of Disasters) and Chapter XII (Other Decisions)**

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Mr. Chair

1. At the outset, the Irish delegation congratulates the members of the International Law Commission elected for the present quinquennium and assures them of our continued support. Ireland thanks the Commission for the report of its Sixty-fourth Session and commends the considerable progress made. I would also like to take this opportunity to join with others in paying tribute to the outgoing Secretary of the Commission, Mr Václav Mikulka, and express our sincere gratitude for his outstanding commitment to the Commission's work ever since 1999. We wish him all the very best in his future endeavours.

Chapter V – Protection of Persons in the Event of Disasters

2. Turning then to the topic of “The Protection of Persons in the Event of Disasters”, I would like to thank the Special Rapporteur, Mr. Eduardo Valencia-Ospina, for his ongoing work on this topic, including in particular his Fifth Report, which was before the Commission at its last session. Ireland aligns itself with the statement on behalf of the European Union on this topic.
3. I now turn to the draft articles provisionally adopted by the Drafting Committee at the Commission's last session.
4. We welcome the work of the Commission on the duty to cooperate. In his elaboration of the duty to cooperate, the Special Rapporteur examined a number of key issues. We support his observation that the attempt to provide for assistance while respecting the sovereignty of the affected State is not a novel concept in international law. We also agree with his assessment that the duty to cooperate should be seen as an obligation of conduct rather than of result. However, we would reiterate our view that this is not a legal obligation in customary international law.
5. *The Special Rapporteur provides a useful exposition of the categories of cooperation. We welcome the work of the Drafting Committee of Article 5bis. While recognising that the forms of cooperation listed are not intended to be exclusive, we wonder whether reference might usefully be made to needs assessment in this article. We agree with the Drafting Committee that it is appropriate to depart from the formulation used in the Articles on the Law of Transboundary Aquifers and to refer first to humanitarian assistance in this article. However, it might be clearer to state that “cooperation includes coordination of humanitarian assistance and international relief actions.” We also note the consideration given by the Special Rapporteur to cooperation in disaster preparedness, prevention and mitigation and believe this issue might be dealt with more explicitly.*

6. *Draft Article 13 is one of a group of articles, beginning with Article 9 that deals broadly with the issue of State sovereignty, States' duties, and States' prerogatives in the event of disasters. In exercising their sovereignty, States may place conditions on the provision of external assistance, but in our view it is important that such conditions do not hinder the protection of persons or the provision of disaster relief and assistance. Therefore, we welcome the inclusion by the Drafting Committee of the second sentence of draft Article 13 which requires that conditions must take into account identified needs and quality of assistance.*

7. *In Ireland's statement on this issue at the 64th session of the General Assembly, we encouraged the Commission to focus on the technical task of building a legal framework to underpin and facilitate disaster relief and highlighted a number of issues in need of examination. We are pleased to see draft Article 14 on the facilitation of external assistance. This draft Article provides a useful indication of the concrete measures to be taken in the event of disaster to ensure that assistance can be delivered as promptly as effectively as possible.*

8. *We welcome the inclusion of draft Article 15 dealing with the termination of external assistance. We agree with the approach of the Drafting Committee not to draft this provision in terms of granting States a unilateral right of termination and place great importance on the requirement for consultation set out in this draft article. We recognise that the aim of the Committee was to find a balance between the rights of the affected State and the positions of States and other actors providing assistance, and consider that this has been achieved. However, we believe that a reference to the needs of affected persons should also be included. We note the use of the words "assisting actors" and look forward to their definition in an article on the use of terms.*

9. *Finally, I would like to make some short remarks on issues raised in Chapter XII of the Commission's report. Ireland very much welcomes the work of the Planning Group established by the Commission, and in particular we welcome the ambitious work programme for 2013-2016.*

10. *My delegation also appreciates the consideration given by the Commission to General Assembly resolution 66/102 of 9 December 2011 on the rule of law at the national and international levels and welcomes the reference to the Commission's work in the Declaration of the High-level Meeting of 24 September on this topic. We encourage the Commission to maintain an involvement with this important issue.*

11. Finally, Mr. Chair, Ireland is very pleased to see the publication of the eighth edition of "The Work of the International Law Commission" and joins in welcoming the progress in the elimination of the backlog in the publication of the Yearbook of the International Law Commission. I am pleased to confirm that Ireland has made a modest voluntary contribution this year to the trust fund on the Yearbook.

Thank you.