



PACIFIC SMALL ISLAND DEVELOPING STATES **United Nations Member States**

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**Statement by H.E. Mr. Mahe ‘U. S. Tupouniua,
Ambassador and Permanent Representative of the Kingdom of Tonga to the United
Nations on behalf of the Pacific Small Island Developing States on Agenda Item 78: Report
of the International Law Commission on the work of its Sixty-Sixth Session (Part I), at the
Sixth Committee of the 69th Session of the United Nations General Assembly,
New York, Tuesday, 27th October 2014**

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Mr. Chairman,

I have the honour again to speak on behalf of the 12 Pacific Small Island Developing States (PSIDS) represented at the United Nations, namely the Federated States of Micronesia, Fiji, Kiribati, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tuvalu, Vanuatu, and my own country, Tonga.

I would like to take this opportunity at the outset to thank the Chair of the International Law Commission and congratulate the Commission on the outcomes of its 66th session. PSIDS would like to comment specifically on the draft articles on the Protection of Persons in the Event of Disasters, as discussed in Chapter V of the Commission’s report of its 66th session which is presented to this Committee as A/69/10. We congratulate the Committee on the adoption of the 21 Articles on the Protection of Persons in the Event of Disasters, and the related commentaries, on first reading.

PSIDS welcomes the proposal for the inclusion of the new draft Article 18, which recognizes the duties upon States to protect relief personnel, equipment, and goods. In our view, these protections are crucial to remove impediments that may prevent relief from reaching those in need in a time of natural disaster, and to encourage states and other entities to provide as much assistance as they are able to offer to fellow states.

Mr. Chairman,

This focus on supporting disaster relief is particularly important in the Pacific region.

Our Pacific small island developing states are highly susceptible to the increased risk of disaster as a result of climate change. Across the Pacific, rising sea levels and more frequent and severe tropical storms are having an adverse impact on our people and the state of our land, as we are also facing ocean acidification that should impact our reefs by 2030. This impact can increasingly be seen across all members of PSIDS. Therefore, it is PSIDS’ position that the issue on loss and damage that could eventually result from climate change-caused natural disasters should be addressed and anchored in the United Nations Climate Change Conference COP21 that will be held in Paris in 2015.

All member states of PSIDS are working together to ensure that the detrimental effects of a natural disaster can be lessened and mitigated as much as possible through advance preparation and relief assistance to those citizens affected. The approach has been through the consideration and implementation of mechanisms such as joint national action plans on climate change adaptation and disaster risk management. An example of this can be drawn from the joint effort PSIDS has undertaken to monitor the Pacific Ocean in light of the Fukushima nuclear disaster, which could have an impact in PSIDS' economies and livelihood.

At the Third International Conference on Small Island Developing States, which took place last month in Samoa, the international community reaffirmed in the "SIDS Accelerated Modalities of Action" known as the SAMOA Pathway, that SIDS remain a special case for sustainable development and recognizes that disasters can disproportionately affect small island developing States and that there is a critical need to build resilience, strengthen monitoring and prevention, reduce vulnerability, raise awareness and increase preparedness to respond to and recover from disasters. Disaster risk reduction is one of the key priorities for SIDS as elaborated in the SAMOA Pathway and it is important that this issue and all its priorities are taken into consideration in the elaboration of the post-2015 Agenda.

We look forward to a positive outcome of the Third World Conference on Disaster Risk Reduction to be held in Sendai, Japan in March next year, with an ambitious renewed international framework for post-2015 disaster risk reduction. Here, the shift from the vulnerabilities of small islands developing States to building their resilience was stressed, and how, consequently, any decisions on the matter must be done in consultation with our States. Furthermore, it was stated how this entails that these issues must be included in the sustainable development goals and the post-2015 development agenda. It is PSIDS' desire that the SAMOA Pathway document is a blueprint for immediate action, and not just a reference document.

However, responsibility for mitigating the risk of disaster as a result of climate change must not be borne solely by those developing countries most affected. All states must work together to reduce the initial risks, and to address known factors that may contribute to increased fatalities as a result of natural disasters in the future.

Mr. Chairman,

The current responsibility of the affected State to seek assistance where its national response capacity is exceeded reflects this approach.

The recently adopted article 18 provides that a state's consent to external assistance shall not be withheld arbitrarily. This reflects the importance of state sovereignty, and that this obligation also brings with it duties that can come into play when a natural disaster takes place.

PSIDS would welcome the adoption of the additional obligation in article 18 to protect the personnel providing this external assistance, as well as the equipment and goods provided. In our opinion this could bring greater accord between those providing relief and the state itself that have suffered significant injury.

Furthermore, PSIDS welcomes article 12 commentaries, in which the primary role of the affected State to protect persons under its jurisdiction is asserted. Therefore, it is PSIDS' position that States and entities supporting disaster recovery in affected States should better deal and coordinate disaster recovery and relief operations directly with the affected States rather than through international non-governmental organizations. Accordingly, PSIDS welcomes commentaries to article 13 in which the duty of the affected State to seek external assistance is delineated. However, while these articles establish rights and obligations for the affected State and those who assist it, in article 4(c) an explicit reference is made to intergovernmental organizations and non-governmental organizations as "other assisting actors". PSIDS notes two problems with this issue: On the one hand, it leaves out a reference to other entities or individuals which may fall under other assisting actors which were not contemplated; and on the other hand, the Commission should further clarify the interaction between all actors and the affected State, as well as what the rights and obligations are when providing assistance to an affected State, and how that should be framed within domestic law disaster-relief mechanisms.

Mr. Chairman,

It is the view of PSIDS that member states should support each other in mitigating the effects of a natural disaster in any member state. The existence of protection mechanisms for relief personnel will expressly remove potential obstructions that may prevent such personnel from offering assistance to certain states.

As Small Island Developing States, the members of PSIDS are particularly subject to the risk of natural disasters as a result of climate change. We hope that the addition of this protection will lead to increased cooperation of member states in providing assistance to others. The assurance of protections as proposed by article 18 will benefit both those states providing external assistance, and those that are affected by natural disaster by facilitating the provision of such assistance.

PSIDS looks forward to the forthcoming second report of the Special Rapporteur in relation to the substance of the responsibilities of states with regard to protection of the atmosphere, as discussed in Chapter VIII of the Commission's report numbered A/69/10. It is our hope that this report will address the substance of state responsibility in light of the increasing risk of natural disasters, especially in relation to action that states may take to mitigate the effects of climate change.

Thank you, Mr. Chairman.