

Comments by Italy in accordance with GA Resolution 73/209

As already expressed in the Sixth Committee debate in 2018, Italy welcomes a universal legal instrument on the protection of persons in case of disaster, hence seeing merit in the ILC recommendation and in a UN-driven process towards that end. This should result in a convention with a clearly defined scope of application, establishing the fundamental rules and principles of international cooperation in disaster response and prevention.

As for the scope of application, the text of the new instrument should clearly exclude armed conflicts, and political and economic crises from the definition of disasters currently provided in Draft Article 3(a). Similarly, the connection between Draft Articles 7 (Duty of Cooperation) and 8 (Forms of Cooperation in the Response to Disasters) should be better clarified to identify the scope of application of this latter provision (whose text makes specific reference to response capacities, while the Commentary also touches on prevention activities).

Moreover, proper consideration should be given to rendering the text more operational. Whereas Draft Article 15 (Facilitation of External Assistance) provides a comprehensive legal framework aimed at facilitating activities of assisting actors, more specific provisions could be elaborated in order to safeguard the interests and rights of the affected State, at the same time, providing for increasing legal certainty for assisting actors when planning and deploying in disaster response operations.

In the same vein, the process towards a convention could open the door to establishing some form of standing mechanism – for instance, a secretariat, a meeting of the parties and/or a technical body or a combination of different options – which would enable the parties to develop operational, technical protocols and practical tools facilitating the work of stakeholders and relief operators on the ground.

Moreover, the text of Draft Article 18 (Relationship with other Rules of International Law), para. 2, should be amended according to the explanations contained in the commentary to that article and should clarify that, in situations of “complex emergencies”, where a disaster in an area is compounded by armed conflict, the rules of international humanitarian law shall take precedence. The rules contained in the new convention would be applicable only to the extent that any relevant issue is not covered already by international humanitarian law.

Finally, the possibility for international organizations to participate in a future convention should be explored. Their participation would prove vital considering the important role played by universal, regional and sub-regional organizations in this area, and for the relative lack of clear legal provisions facilitating their activities in disaster prevention and disaster response.