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PERFORMANCE

**Representative of the Russian Federation in the Sixth Committee of
the 78th session of the UN General Assembly under the agenda item
"Protection of people in the event of disasters"**

October 4, 2023

Mr. President,

The draft articles of the International Law Commission (ILC) under consideration today deal with the protection of persons in the event of disasters.

The Russian Federation traditionally pays special attention to providing assistance to foreign countries in emergency situations of a very different nature, from forest fires, earthquakes and floods to man-made disasters, pandemics and famine. We have accumulated considerable experience in this area, many international treaties have been concluded. By the way, for our country, the lack of a specialized international legal instrument has never been a hindrance - assistance in these cases was provided on the basis of requests affected States. As far as we know, other

States are also actively engaged in bilateral and multilateral mechanisms to provide assistance at the request of affected States. Therefore, the absence at this stage of a universal treaty on the issues under consideration is by no means identical to a situation of complete legal vacuum.

Nowadays, the intensity of natural and man-made disasters with catastrophic consequences is only increasing. Developing countries, especially those that are already particularly vulnerable, suffer the most. The importance of the protection of people in the event of disasters cannot be overemphasized. That is why my delegation supported the launch of its discussion in the Sixth Committee in the format of a working group. We hope that the forthcoming discussion will make it possible to conduct an objective analysis of the "product" prepared by the ILC, focusing on the main question: whether it can be really useful for states. For my delegation, the answer is not at all obvious.

The Commission's draft articles suffered from serious internal imbalances. This is largely due to the fact that the "human rights" approach has prevailed over the "practical" approach in the Commission's work. The central idea of the project is to "protect" the population not from disasters, but from their own state. This approach seems extremely strange to us.

There are parallels with the notorious concept of the "responsibility to protect", which did not develop as an international legal norm and was used in bad faith by a number of countries as an instrument of interference in the internal affairs of states and the change of "undesirable regimes".

The draft articles did not recognize any rights for an affected country, which was already in a vulnerable situation. At the same time, numerous obligations are addressed to her. In particular, to seek assistance to the extent that the disaster clearly exceeds the national response capacity, to protect people and provide assistance in the aftermath of disasters, to take measures to facilitate the provision of assistance, to ensure the protection of disaster relief personnel, equipment and goods. This long list of obligations is more likely to distract the affected State from taking urgent action than to help it deal effectively with the disaster.

With those who provide external assistance, the project is the opposite - complete discretion and no preconditions. They are not required to respect sovereignty and not to interfere in the internal affairs of the affected country, to respond promptly to its needs.

Such an approach is inconsistent with the principles of solidarity and cooperation. Its application will only exacerbate the already vulnerable situation of the affected State.

It seemed that the elaboration of a truly universal international treaty on the subject matter required a thorough rethinking of the logic proposed by the Commission and a thorough revision of the draft articles in order to shift the focus from the obligations of the affected State to its needs and rights.

In particular, it should be reflected that external assistance is provided on the basis of the request of the affected state and with its consent, as provided for in UN General Assembly resolution 46/182 of December 19, 1991.

It makes sense to clearly spell out the provisions on the inadmissibility of politicizing the issue of providing assistance, imposing it or making it dependent on the solution of extraneous issues.

It is important to note that any assistance must be carried out in compliance with the laws of the affected State, without prejudice to its sovereignty or interference in internal affairs. Such actions may not be used to collect classified information of a political, economic or military nature.

They should be undertaken in full transparency, providing the affected State with comprehensive information on the activities concerned and their sources of funding.

The definition of the concept of "disaster" in article 3 of the draft articles also needs to be improved. In its current version, it can hardly be called all-encompassing. For example, disasters are often transboundary in nature. This circumstance is not taken into account in the definition. In addition, it would be consistent with the realities of today to reflect unilateral coercive measures as a man-made disaster, as well as a circumstance that significantly undermines the ability to protect people in the event of other disasters.

At the same time, the task of developing a universal definition of the term "disaster" is not easy. There is no unified or dominant approach in this regard in international and national practice. For example, Russian legislation and contractual practice operate with the term "emergency situations", considering dangerous phenomena and disasters as such.

Article 10 enshrines a certain "main role" of the affected state in directing, controlling, coordinating and supervising assistance. The proposed approach looks like an encroachment on the absolute and

exclusive right of the state to independently resolve all internal issues, regardless of the will of other subjects. We are convinced that we should not talk about the "main role", but about the exclusive prerogative.

The "human rights" bias in the ILC draft has led, among other things, to the fact that the document pays little attention to practical issues related to the provision of assistance. In particular, the following are not disclosed: the procedure for sending a request for assistance; management of the activities of assistance teams (including canine teams), including their equipment and reporting on the work done; conditions for crossing the state border and the regime of stay in the territory of the affected state; the procedure for transit through the territory of the Contracting Parties; the procedure for the use of transport, its individual types in the provision of assistance; allocation of costs; insurance and compensation for damage caused during restoration work.

Provisions of this kind correspond to modern treaty practice in this area, contribute to the streamlining of interstate relations, and most importantly, accelerate the solution of practical issues and save precious time in difficult conditions of an emergency situation.

In addition, we believe that it is important to reflect in the document the idea that equipment, materials and goods necessary for the provision of assistance should not be subject to unilateral coercive measures.

More detailed comments will be provided in the framework of the cluster-by-cluster discussion of the draft articles.

Thank you.